

SASKATCHEWAN RESPONDS TO FAMILY VIOLENCE: THE VICTIMS OF DOMESTIC VIOLENCE ACT

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SASKATCHEWAN RESPONDS TO FAMILY VIOLENCE: THE VICTIMS OF DOMESTIC VIOLENCE ACT

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INTRODUCTION:

Saskatchewan recently introduced *The Victims of Domestic Violence Act* to assist in responding to the needs of victims of family violence.¹ This legislation is the first of its kind in Canada. This article discusses why the legislation was developed, how it will assist victims of family violence and the process used to implement the new provisions.

These are early days for this new initiative. Proclaimed on February 1, 1995, there is not yet statistical information or formal evaluation about how it is working beyond the initial implementation. To date, the concepts have been accepted and embraced by government, police and community. The coming months will provide testament to the assistance victims receive.

BACKGROUND:

In 1983, the Minister of Justice and Attorney General of Saskatchewan issued directives to police and prosecutors regarding the treatment of cases of wife abuse.² Part of the rationale for such a directive was the notion that the justice system, particularly police and prosecutors, had not met the needs of abused women. Domestic disputes were thought to be a private matter between spouses. Justice system intervention only occurred at the urging of the victim. The mandatory charging policy, similar to policies brought forward in other jurisdictions, instructed police to lay

charges where sufficient evidence existed that an offence had occurred. Prosecutors were directed to prosecute cases and not withdraw charges unless exceptional circumstances existed and then only with authority of the Director of Public Prosecutions.³

In 1985, the Saskatchewan Department of Justice undertook an evaluation of the police and prosecutorial involvement in cases of wife abuse in the province.⁴ Findings from that study confirmed what subsequent studies of family violence have found with respect to the nature of the violence, the demography of the victims and offenders, and the frequency with which reports are made to police.

It was recommended that police strengthen and continue the charging policy, that better police protocols for responding to and reporting incidents of wife abuse be developed, and police management continue to monitor the treatment of such cases.⁵ The evaluation also called for police recruit in-service training to focus directly on issues of family violence. Prosecutors **were** urged to continue the emphasis on prosecution of spousal assault charges.⁶ Finally, it was recommended that the judiciary be invited to participate in educational programs on family violence.⁷ The study also suggested that special efforts to assist victims **were** required at both the pre-charge and pre-prosecution period.

The *Victims of Crime Act* was introduced in 1989 to coincide with federal *Criminal Code* amendments providing for victim surcharge.⁸ The provincial Act established that the views and concerns of victims be taken into account, and appropriate assistance and information be provided throughout the criminal process.

The Saskatchewan Justice Victims Services Program, launched in 1992, placed a special emphasis on meeting the needs of VIIWomen, children and Aboriginal people. Studies indicate that these victims experience higher rates of family violence when compared with all crime victims.⁹ The Victims Services Program initially reflected

those needs by focusing program development in the area of family violence.

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In 1993, Saskatchewan Justice established an internal Family Violence Task Force and initiated a review of recommendations from various task forces and studies from across the country. This review considered the evaluative work completed in other jurisdictions on mandatory charging policy.¹⁰ The development and subsequent evaluation of the Winnipeg Family Violence Court as a model in response to cases of family violence was also reviewed.¹¹ Many task force reports and program evaluations have recommended that an augmented response at the front-end of the criminal justice system is required to better respond to family violence.¹²

At the community level, the City of Prince Albert struck a Task Force on Family Violence in response to a number of incidents of family violence which had occurred in Prince Albert and the surrounding area, resulting in the death of two women and two children.¹³ A support group was **formed** to bring together community organizations to consider how to respond to these issues. Over a two year period the Task Force developed many thoughtful, practical ideas of how to respond to family violence in their community. Their conclusions were the result of deliberations by the Committee, public meetings, and the evaluation of surveys completed with survivors of wife assault and with community agencies which serve victims.

The major recommendation was to work together in an interdisciplinary fashion to deal with issues and provide services.¹⁴ Recommendations directed at the police and the justice system concluded that where possible, and where appropriate, the abuser rather than the victim and dependant be removed from the home.¹⁵

At the same time a clearer statistical picture of family violence in Canada and Saskatchewan was emerging. Special studies undertaken by the Canadian Centre for Justice Statistics (CCJS), the Statistics Canada survey of Violence Against Women and the Statistics Canada Victimization Study noted that the majority of victims of

domestic violence did not contact intervention agencies, such as the police, social service agencies or community agencies.¹⁶ As well, a CCJS study on Aboriginal Urban Crime pointed out the special needs of female Aboriginal victims.¹⁷ These findings suggest that additional measures and support services for victims must be **created** to meet the needs of those experiencing family violence.

Part of the internal discussion at Saskatchewan Justice centred on augmenting the response of the justice system to incidents of family violence. Provisions under *The Matrimonial Property Act* and *The Child and Family Services Act* offered some protection for family violence Victims, as did some of the programs being developed through the Victims Services Program. The question was posed whether a more focused legislative response to the issue of family violence could be developed to supplement *Criminal Code* provisions and augment the provincial family legislation. The sole reliance on *Criminal Code* charging in response to situations of domestic violence often meant that the point of intervention was delayed, reactive and under utilized. In discussions, police noted that often charges could not be laid due to a lack of evidence or victim reluctance to provide statements at the time of an incident. Police frequently left the scene of a call concerned that further violence might occur. Intervention at an earlier point in the conflict could stem the violence before it occurred.

Criminal law is limited in the response offered to victims of crime. *Criminal Code* amendments proclaimed in 1989 sought to recognize some victims' needs through provisions which allow for victim impact statements, the levying of victim surcharges and the use of photographic evidence to allow for faster return of victim property. However, criminal law cannot fully address victims' needs, particularly with respect to victims' needs in family violence cases. The criminal process offers little or no assistance on property matters, ownership or possession of a residence or custody of children. The focus of criminal law is with charging and punishing offenders.

Since 1992, Saskatchewan has embraced the idea of an interdisciplinary model to work on the issues of family violence. A Provincial Partnership **Committee** on Family Violence brought together community agencies and government representatives to design a model of partnership and cooperation in response to family violence.¹⁸ In addition, an Interdepartmental Committee on Family Violence had been used in government for several years to coordinate activities in this area.

The primary question was how can Saskatchewan Justice better assist victims of domestic violence? **What** role could the province play in encouraging the justice system to focus greater attention on meeting the immediate needs of family violence victims? Experience with mandatory charging, the emerging Victim Services Program, a review of recommendations from reports and statistical sources, and the experience of working in a collaborative manner with **community**, suggested an expanded role for the justice system. Existing provincial family law legislation addressed some of the needs, but was limited in providing an "immediate" response. Hence, Saskatchewan Justice decided to create new legislation.

OBJECTIVES OF THE INITIATIVE:

Discussion with community organizations, among government departments and among members of the policy team at Saskatchewan Justice honed the focus of the initiative, clarifying these objectives.

To promote the message that domestic violence is a serious concern for the justice system.

To assist victims by providing additional legal tools which fill gaps in the justice response to family violence.

To focus on assisting victims of domestic violence, in addition to offence violation and punishment of the offender.

To provide ~~immediate~~ assistance to victims of domestic violence by the use of emergency intervention orders.

To facilitate greater access by victims to longer-term remedies by expediting victim assistance orders.

To assist domestic violence victims who are unable to act on their own by the use of warrants of entry.

THE LEGISLATION:

The legislation provides for three types of remedies for victims of domestic violence: emergency intervention orders, victim assistance orders and warrants of entry.

The Act applies to any cohabitant who has suffered domestic violence at the hands of another cohabitant. Domestic violence includes any intentional or reckless act or omission that causes bodily harm or damage to property; any act or threat which causes a reasonable fear of bodily harm or damage to property, forced confinement or sexual abuse.

Cohabitants are persons who have resided together or who are residing together in a family relationship, spousal relationship or intimate relationship; or persons who are the parents of one or more children, regardless of their marital status or history of cohabitation. Orders are available to all victims of domestic violence including; spouses, common-law spouses, children, seniors, disabled persons and any person in an intimate or family relationship.

Emergency intervention orders are available 24 hours a day from a select number of specially designated Justices of the Peace. These orders are effective upon notice to the abuser and remain in effect for as long as the Justice of the Peace directs. The order can: restrain the abuser from communicating with or contacting the victim or members of the victim's family; give a victim exclusive possession of the home; direct

) a peace officer to remove the abuser from the home; direct a peace officer to accompany the victim or the abuser to supervise the removal of personal belongings.

While effective as soon as the abuser is notified of it, these orders are also subject to ratification by the Court of Queen's Bench. Review or variation of the order may be made by application to the Court.

The Court of Queen's Bench can issue victim assistance orders to allow additional remedies for the victim such as: monetary compensation from the abuser for losses suffered as a result of the domestic violence (dental expenses, legal expenses, moving expenses, dothes); temporary possession of personal property (vehide, cheque book, identification); requiring the abuser to stay away from any place attended by the victim or the victim's family (residence, business, schools); restraining the abuser from contacting the victim or members of the victim's family or their employer.

Breach of either order is a criminal offence under section 127 of the *Criminal Code*. Police are authorized to arrest without warrant any person who is breaching an order.

Where there is cause for concern that a person who may be unable to act on his or her own (senior or disabled person) suffers from domestic violence and access is denied, the Act authorizes a Justice of the Peace to issue a warrant authorizing entry by the police to examine the situation and, if necessary, remove the victim to provide him/her with medical attention.

CONSULTATION:

Once an initial draft of the legislation was prepared in November, 1993, it was critical that the concepts be discussed with police, crisis intervention agencies and community agencies which support services for victims. The first round of consultations involved departmental legal counsel and policy staff and the Interdepartmental Committee on

Family Violence. Within seven weeks consultation meetings had been held with 62 agencies.¹⁹ Key issues and concerns raised by these agencies were repeated at almost every meeting. For the most part, the major issues did not concern the substance of the proposed **Act**, but rather the process for implementation and the potential impacts for victims.

The primary concern was for the safety of victims and the commitment by the Department of Justice to continue to deal with incidents of family violence as serious offences. Many feared that the emergency intervention orders would be used in place of *Criminal Code* charges, thereby diminishing the criminal justice response and allowing a greater degree of police discretion. Controversy regarding the practice of the mandatory charging policy continues in Saskatchewan. Police maintain that charges are always laid when the evidence and/or victim statements support charges, while victim support agencies claim that there is too much police discretion and the charging policy is not always respected.

Community organizations and victim support services agencies raised the fear that victims would be left in their homes, once the abuser had been removed, isolated from support services, vulnerable to retribution and further abuse. An attendant issue was an anticipated diminished role for safe shelters, if victims would no longer require residential services. In Saskatchewan, as in other regions, safe shelter staff had been at the fore-front of establishing services for abused women, creating the residences, providing counselling services, educating the public and government about these issues, and pressing for recognition and response to the needs of spousal assault victims. Saskatchewan safe shelters continue to provide referral, follow-up and outreach services. It is unclear how the proposed legislation might alter the services from the way in which they had been traditionally delivered.

Second, there were concerns about the role justice personnel would play in assisting victims with obtaining orders under the proposed **Act**. The reaction of the police was

) mixed; they **were** supportive but concerned about the impact on workload. Additional legislation carried with it the potential for more work with extra reports/forms and statistical requirements. Municipal police services and the Royal Canadian Mounted Police indicated that growing workload and **paperwork were** key concerns which needed to be balanced with all of their policing responsibilities. For all of these reasons, the concepts embedded in the proposed legislation early intervention, new actions which police could use to diffuse situations without charging, additional civil remedies for victims and the use of a streamlined process offer important aids to police.

"Domestics" are often difficult situations to bring to a dear resolution. If victims not offer statements (often out of fear), without physical evidence charges could not be laid. Officers sometimes leave an incident unable to provide a remedy for the victim, concerned that they will be returning to the residence later to intervene again, often when more serious physical violence has occurred. Police reaction was generally positive about the proposed Act.

Community agencies **were** critical that so much of the response to victims of family violence would lie with the police. They suggested that the police **were** still poorly trained regarding these issues and that the safety of victims could not be guaranteed. In their view, the mandatory charging policy was failing, in part because the police either did not understand the issues and behaviours associated with family violence or failed to treat these incidents seriously. The proposed Act would only be successful if police **were** provided with special training in family violence.

Third, on a similar note, many raised concerns about the use of Justices of the Peace to grant the emergency intervention orders. Family violence is full of complexities. How would the J.P.'s be able to ascertain, over the telephone, whether the victim required the remedy of the order and whether safety could be assured? **Community**

organizations **were** particularly **alarmed** that the "local J.P." would be involved in making such decisions.

Fourth, given the innovative nature of the legislation and lack of sufficient precedents from other Canadian jurisdictions, concerns **were** expressed that the provisions will likely be subject to challenges.

Fifth, how this legislation might be applied in rural and remote communities was also an issue with many community representatives. Given the general lack of services in many rural communities and the concern that many victims **were** isolated, particularly in the north, it was unclear how orders under this Act could **assist** in those circumstances.

Sixth, community representatives suggested that victims should be **allowed** the opportunity to seek an order under the proposed Act without calling the police. Many victims are intimidated and reluctant to involve the police. **While** wishing the violence to end, they choose an approach which might allow for the abuser to seek counselling or healing, without the fear of charges or police involvement. This message was particularly dear from Aboriginal women. Use of these types of orders may provide a more appropriate avenue toward healing within the community.

Seven, would there be sufficient services to meet the needs of victims and abusers? Police and community speculated on the type of services which might be required in response to these changes. These include out-reach services for victims, counselling and treatment services for abusers, and legal aid services for victims.

The consultation process was an invaluable step in identifying issues which could hamper successful use of the provisions and provided the first indications of the type of impacts which might be anticipated from this innovative initiative.

Revisions **were** made to the legislation, where possible, to address these concerns. In general, the substantive provisions of the proposed **Act were** strongly endorsed. Most of the issues expressed in the consultation process **were** linked to the readiness of the justice system and community to work with the new provisions and properly prepare for potential outcomes. This, in turn, signalled the need for a carefully designed implementation strategy.

On March 8, 1994 Robert W. Mitchell, **a.c.**, Minister of Justice and Attorney General, introduced *The Victims of Domestic Violence Act*, the first provincial statute of its kind in Canada. Two days later he rose in the Legislature to move second reading of the **Act**. He began his remarks with an Inuit legend of two sisters who eventually became Thunder and Lightning to rid their lives from abuse.²⁰ Mitchell **went** on to say,

*.. In our society **we** have come very slowly and much later to the same recognition. To the recognition that there are women living in our society who live in fear, who can't find safety, who can't find security, who cry out for help to make them safe and secure, and **we** have been so slow in responding - to our great shame. Now **we** are making progress. Our culture with its male orientation, and its male understanding of problems, has slowly been coming to the recognition that there is a serious problem here around domestic abuse, particularly the abuse of women and children, and it is time that **we** did something about it... It is against that backdrop, that this government, indeed this legislature turns to the problem of domestic violence. And our response for this time, in this place, is this Bill. Our response is not thunder and lightning. But our response is a significant step along the way to the achievement of safety and security for women...*²¹

On May 10, 1994 the Bill passed third reading.

IMPLEMENTATION:

Issues raised in consultation pointed to the need to develop an implementation strategy for the legislation. An in-house implementation committee was formed at Saskatchewan Justice to plan, guide and ready the justice system and the community for proclamation.²² Two key components to the success of this endeavour were predominant; police training and selection of the Justices of the Peace.

Senior police officials had been supportive of the initiative since the inception. Providing officers with new options to assist victims was in keeping with the philosophies of victim assistance and community based policing. In recent years, police have sought methods to provide an earlier point of intervention in disputes. Responding to incidents of domestic violence is challenging, as police often feel frustrated by being unable to offer the assistance they think victims require.

Community agencies raised the concern that in their view, the police were still not sufficiently trained about the complexities of domestic violence. Without dedicated education the new legislation would be ineffectual. To ensure officers fully understood the new provisions, a police training package was developed by Saskatchewan Justice which contained three main components. Officers would learn about the procedures under the new Act, discuss how this legislation would be used in conjunction with criminal law and learn more about the dynamics of family violence.²³ Given that the mandatory charging policy remained in force, it was critical that officers be made aware of the integration of the new provisions with criminal offences. This fit with criminal law was essential. The new Act had been envisioned as an additional remedy, not as a substitute.

The police community displayed remarkable interest and cooperation. The Assistant Commissioner of the RCMP in Saskatchewan, L.R Proke, seconded a member to coordinate the development and delivery of the training package.²⁴ Trainers from the

) Saskatchewan Police College were quickly set to work to help develop training standards and design the curriculum. The goal was to provide a one-day training course for ALL front-line police officers in the province over a period of three months.

Saskatchewan is policed by a number of municipal forces in large urban centres, and by the RCMP which has jurisdiction for approximately half of the population scattered over a large geographic area. With 125 RCMP detachments, some with only one officer and others accessible only as fly-in sites, the task of delivering the training was considerable. In the urban centres, problems of freeing members from rotating shifts, court duty and financially strapped training budgets presented other challenges.

The police services embraced the idea of a day-long training session for all of their front-line members. Involvement in the training also required that each police service and sub-division of the RCMP contribute a trainer.

The method of delivering the training was a "rain the trainers" model. Twelve police trainers were selected from various regions of the province to take on a leadership role with the new Act. and provide the actual classroom sessions.²⁵ The goals of this model were to develop local in-house expertise about the legislation and to disburse the responsibility for training so that it might occur in a timely and cost efficient manner.

One of the prevailing notions about effectively responding to family violence was the idea that interagency cooperation provided a better service for victims than anyone service alone. Finding ways to cooperate between community agencies and government had been the focus of the Provincial Partnership Committee on Family Violence since 1993. Many local communities had interagency committees which tried to establish protocols and procedures so that all agencies were knowledgeable about the range of services which were available.

Tensions between police and safe shelter staff were noted in **some** communities. For the most part police and shelter staff had few dealings, leading to basic mistrust of each other and the role they played with victims. Shelters were particularly critical of the apparent lack of training police received and police held the view that shelter staff failed to understand the role officers played in investigation of an incident.

It was agreed that in each region, the training team would consist of a police officer and a family violence specialist, most often a staff **member** of a safe shelter. Over the course of three months, the teams did an amazing job of delivering training to approximately 2700 police and crisis intervention staff **members**. The trainers reported success using this cooperative model, opening the door for improved community/police relations and a more informed referral system for victims.

Police training also concentrated on the types of procedures that would accompany the legislation. Police had cautioned about creating too much paper **work** or difficult procedural **arrangements** which might inadvertently inhibit the use of the Act. The procedures for contacting a Justice of the Peace were straight forward and a one-page form was designed to collect all the relevant information requiring little follow-up paper work.

Agreement was reached with the Canadian Police Information Centre (CPIC) to allow that information about orders made under the Act would be included in the information system.²⁶ CPIC has historically only been available for entry of criminal offences. Police have often cited the frustration of attending a situation without confirmed information about a restraining order or possession order. In order to effect the enforcement of the orders (a breach of which is a criminal matter) and enhance the safety of officers as they attend to domestic disputes, entry on the CPIC system was welcomed.

Apart from police training, the most critical element in the implementation was selection of the specially designated Justices of the Peace. Saskatchewan has over 250 Justices of the Peace, appointed by Order in Council located in most communities throughout the province. These J.P.'s perform a number of tasks under the supervision of the Chief Judge of the Provincial Court on a fee for service basis.

The role the Justices of the Peace play with *The Victims of Domestic Violence Act* is an emergency capacity to hear and grant emergency intervention orders. All orders are subsequently reviewed by the Court of Queen's Bench. Designated persons, as defined in the legislation (police, mobile crisis staff, victims services ~~co-ordinators~~) may make applications on behalf of victims to these Justices of the Peace in person or on the telephone. Other persons assisting victims, but not designated in the Regulations, may appear in person to bring an application on behalf of a victim.

Given the time that these emergency situations are most likely to occur and the geographic nature of the province, the majority of the contacts are by telephone. A special telephone system was designed, using a single province-wide number connecting all the Justices of the Peace and ensuring a speedy response.

When an order is granted, the Justice of the Peace directs the police to serve the abuser with the order and ensure that the victim receives a copy. In situations where the police are involved in obtaining the order, it can be served immediately.

Initial concerns were raised about the ability of the existing Justices of the Peace to become fully acquainted with the issues of family violence in order to bring expertise to these complex situations. Others feared that local J.P. ~~W~~^ould not have the necessary objectivity or security to make reasoned and impartial decisions.

Early in the implementation process it was agreed that a special group of Justices of the Peace ~~W~~^ould be recruited. Candidates ~~W~~^ould need to demonstrate an

understanding of the dynamics of family violence. Other considerations included: the need to have various linguistic groups represented, most notably, Cree, Dene and French; individuals who had experience in intervention work; a knowledge of life in rural and remote communities; and experience with immigrant communities. The factor of least importance was previous experience with the justice system process. In short, the decision was made to recruit individuals who had background in the issues of family violence rather than experience working with the justice system. Given the complexities of domestic violence, the new Justices of the Peace could more easily be trained about the justice procedures than the dynamics of family violence.

The designated Justice of the Peace positions **were** widely advertised. Over 500 applications **were** received. **Twenty-two** Justices of the Peace **were** appointed to deal exclusively with *The Victims of Domestic Violence Act*. As intended they represent a variety of professional backgrounds, experience and linguistic abilities, with women and Aboriginal persons being **well** represented within this group. Once selected, special training sessions **were** held to bring the group together and focus on the provisions of the legislation, procedural aspects and the type of issues they would consider in the granting or denying of the emergency intervention orders. These special Justices of the Peace will continue to meet on a regular basis to discuss and monitor their handling of the requests.

PROCLAMATION:

The Victims of Domestic Violence Regulations **were** developed in a second round of community and interdepartmental consultation during the fall of 1994.²⁷ Once the police training had been completed and the Justices of the Peace recruited and trained, the legislation was proclaimed on February 1, 1995.

The next task was to provide information to a number of select audiences and to the community at large. An information pamphlet was developed and distributed and

information sessions organized across the province.²⁸ The Interdepartmental **Committee** on Family Violence had discussed how information about the legislation could be shared with front-line government staff and community agencies throughout the province. It was agreed that sessions would be organized for local communities during the spring of 1995 to provide a two hour presentation about the features of the legislation. The audience was generally government staff such as child protection workers, public health nurses, mental health workers, primary care nurses, Fann Stress Line staff, educational directors and others who are in contact with victims. **Community** agencies were also invited to participate in these sessions. Most of the sessions were delivered by Gary McLennan, Co-ordinator of Training for the Act and were very well received.

EVALUATION:

Evaluation is an important component of this initiative. The evaluative questions are complex and many of the impacts and effects of such an initiative will only come to be known over a long period of time. An Evaluation Advisory **Committee** has been formed with representatives from RCMP, police, federal and provincial governments and community agencies.²⁹ The purpose of the **committee** is to provide advice to Saskatchewan Justice about evaluation issues and suggest appropriate methods of data collection. The primary question to be evaluated is whether this legislation effectively assists victims of domestic violence.

Many agencies, services and individuals have a role in gathering information and assessing the impact of the Act. It is important that safe shelter staff, crisis intervention agencies, Legal Aid staff and victims themselves, contribute to the understanding of the impact of the legislative provisions.

One of the challenges of evaluation and procedural review is to determine if the legislation is accessible to family violence victims. Community consultations

suggested three areas which affect the utilization of the provisions of the Act. First, it has been suggested that many victims are still reluctant to involve the police in order to obtain an order. In addition, victims in more remote and rural communities often do not have ready access to the police. To satisfy this desire to provide a non-police option, crisis intervention staff and victim coordinators are designated to bring requests for emergency intervention orders to the Justices of the Peace. It may be necessary to provide other front-line staff with the designation and training in order to ensure that victims have alternatives.

Second, victim assistance orders are granted directly from the Court of Queen's Bench. Concerns raised about obtaining victim assistance orders centred on access to the Court, cost and timeliness. Saskatchewan has recently created a Family Law Division within the Court of Queen's Bench to extend the jurisdiction to the entire province.³⁰ Since the concept of a Unified Family Court was introduced in 1978, it had been limited to Saskatoon. Specialization and expansion of the Court will improve access for parties.

Access to the Court is an important consideration. Legal Aid is available to assist eligible victims to bring forward applications for victim assistance orders. The Family Law Division is considering ways it might assist parties to prepare information for consideration by the Court.

The third issue which will be carefully ~~reviewed~~ is the relationship between the use of the emergency intervention orders and Aboriginal communities. During consultations, Aboriginal VIfOmen were positive and dear in their support of the new legislation. Saskatchewan Aboriginal communities have been historically plagued by violence, much of it directed at VIfOmen and children. Studies undertaken in the larger urban centres report that Aboriginal VIfOmen are particularly at risk of victimization.³¹

) Many Aboriginal communities and organizations embrace the idea of developing a holistic approach to healing within the community. The desire is to regain control of the community by encouraging different ways of resolving conflict and fostering responsibility among offenders and community for past offences. Aboriginal women in particular are often at the fore-front of finding ways to reduce violence and start the healing process. The promise the new legislation holds for Aboriginal communities is that offenders can be held accountable for their behaviour, in ways which does not always include further involvement with the criminal justice system.³² This opens the door for healing and community reintegration in a context more in keeping with Aboriginal tradition. Most Aboriginal people fully support mandatory charging and where warranted in serious offences, agree that a criminal justice system response is appropriate. But they also struggle to find venues to bring more permanent solutions to troubled communities.

Support in the Aboriginal communities is not limited to women's organizations and intervention staff. The Federation of Saskatchewan Indian Nations welcomes the initiative and has started work to make all aspects of the legislation are applicable for reserve communities.³³

These issues and others will be closely watched in the coming months to ensure that all victims have access to the provisions. Continued consultation, coupled with the evaluation will allow Saskatchewan Justice to assess the impact and find other innovative ways to assist victims of family violence.

Elimination of domestic violence will only occur through an integrated effort of government and community agencies and a profound change in attitudes about domestic violence. This Act is a small step forward in the work needed to assist victims.

1. Statutes of Saskatchewan, *An Act respecting Victims of Domestic Violence*, 1994, Chapter V-6.02, Queen's Printer, Regina
2. Lane, G., Minister of Justice and Attorney General, Memo to All Chiefs of Police, November 14, 1983
3. MacKay, Q.C., Ken, Director of Public Prosecutions, Memo to All Agents of the Attorney General, May 13, 1983
4. Saskatchewan Justice, Policy, Planning and Evaluation Branch, "Report on Police and Prosecutorial Involvement in Cases of **Wife** Abuse in Saskatchewan", January 1987
5. Ibid., page 183
6. Ibid., page 184
7. Ibid., page 188
8. Statutes of Saskatchewan, *The Victims of Crime Act*, 1989, Chapter V-6.01, Queen's Printer, Regina
9. A good compilation of research is contained in Statistics Canada, Canadian Centre for Justice Statistics "Family Violence in Canada", 1994, Ottawa
10. An example of these types of studies is the London Family Court Clinic, " **Wife** Assault as a Crime: The Perspectives of Victims and Police Officers on A Charging Policy in London, Ontario, from 1980-1990", April 1991
11. Ursel, E.J. 'The Wnnipeg Family Violence Court", Juristat Vol. 14, No. 12, Ottawa: Canadian Centre for Justice Statistics, Statistics Canada, 1994
12. Examples of reports include: Report of the British Columbia task Force on Family Violence, "Is Anyone Listening?", 1992, Victoria and the Final Report of The Canadian Panel on Violence Against \Nomen, "Changing the Landscape: Ending Violence-Achieving Equality", 1993, Ottawa, Ministry of Supplies and Services
13. Prince Albert Task Force on Family Violence, "Final Report", 1993, Prince Albert
14. Ibid., page 18
15. Ibid., page 39

16. Statistics Canada, "Violence Against Women Survey" The Daily, November 18, 1993 and Statistics Canada, "Patterns of Criminal Victimization in Canada", General Social Survey, 1990, Ottawa
17. Statistics Canada, Centre for Justice Statistics, "Police-Reported Aboriginal Crime in Calgary, Regina and Saskatoon", March, 1993, Ottawa
18. Provincial Partnership Committee on Family Violence, "Final Report", 1995, as submitted to Family Violence Prevention Division, Health Canada
19. Agencies included: police, crisis intervention services, family services bureaux, provincial and local women's organizations, Aboriginal women's organizations, Aboriginal service delivery agencies, tribal councils, provincial association and individual safe shelters, sexual assault centres, immigrant women's organizations, youth centres, disabled persons organizations, agricultural women's organizations, hospitals, interchurch networks, and senior's abuse committees.
20. Saskatchewan Legislative Assembly, "Debates and Proceedings", March 10, 1994, page 795, Regina
21. Ibid., pages 796-797
22. The Implementation Committee is chaired by Doug Moen, Executive Director of Public Law and Policy. Members include: Susan Amrud, Legislative Services; John Baker, Law Enforcement; Gard Dauncey, Court Services; Barb Hookenson, Court Services; Penny Kelly, Victim Services; Neil Madean, Justice of the Peace; Darcy McGovern, Legislative Services; Gary McLennan, Law Enforcement; Betty Ann Pottruff, a.c., Policy Planning and Evaluation; Tom Savage, Police Commission; Carol Snell, a.c., Public Prosecutions; Sandy Tufts, Administrative Services; Jan Turner, Policy, Planning and Evaluation; Usa Ann Wood, Communications.
23. Saskatchewan Justice, Law Enforcement Services, "Course Training Standards for *The Victims of Domestic Violence Act*, 1994, copyright, October, 1994, Regina
24. Corporal Gary McLennan, Royal Canadian Mounted Police, "P" Division, Regina, Saskatchewan
25. Regions included: Estevan, Moose Jaw, North Battleford, Prince Albert, Regina, Saskatoon, Swift Current, Weyburn, and Yorkton.

26. Correspondence ~~between~~ D.G. Simpson, Officer in Charge, CPIC Services, Ottawa; L.R. Proke, Assistant Commissioner, "P" Division, RCMP and W.B. Cotter, Q.C., Deputy Minister of Justice and Deputy Attorney General, Saskatchewan Justice, at September, 1994 and January, 1995
27. Statutes of Saskatchewan, *The Victims of Domestic Violence Regulations*, 1994, Chapter V-6.02, Queens Printer, Regina
28. Women's Secretariat, Government of Saskatchewan provided funds to design and print the pamphlet.
29. Funding for "A Proposed Evaluation Design Study: Victims of Domestic Violence Act" by Prairie Research Associates was provided by the Department of Justice Canada, Research Section, 1994. It is anticipated that the Department of Justice Canada will have a continued role in funding evaluation of this legislation.

The Evaluation Advisory Committee has representatives from: Justice Canada, RCMP, Saskatchewan Legal Aid Commission, Provincial Association of Transition House of Saskatchewan, Mobile Crisis Services, Advisory Committee on Disabled Persons, Police Services from Regina, Saskatoon, Prince Albert, Moose Jaw, Weyburn and Estevan, Social Services, Women's Secretariat and the members of the Saskatchewan Justice Implementation Committee.
30. Statutes of Saskatchewan, *Amendments to The Queen's Bench Act, 1994*, Chapter Q-1, Queen's Printer, Regina
31. Woods, Theresa, "Final Report of the Family Violence Northern Partnership Model", 1994, Aboriginal Women's Council of Saskatchewan, Prince Albert
32. Ibid. and Meyoyawin Circle Project, "Final Report", 1994, Prince Albert
33. Federation of Indian Nations of Saskatchewan, Justice Commission meeting of March 16, 1995. Support for the Act noted in the discussion.

1994

CHAPTER V-6.02

An Act respecting Victims of Domestic Violence

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(Assented to May 12, 1994)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

- 1 This Act may be cited as *The Victims of Domestic Violence Act*. Short Title
- 2 In this Act: Interpretation
 - (a) "cohabitants" means:
 - (i) persons who have resided together or who are residing together in a family relationship, spousal relationship or intimate relationship; or
 - (ii) persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time;
 - (b) "court" means the Court of Queen's Bench;
 - (c) "designated justice of the peace" means a presiding justice of the peace who has been designated for the purposes of this Act;
 - (d) "domestic violence" means:
 - (i) any intentional or reckless act or omission that causes bodily harm or damage to property;
 - (ii) any act or threatened act that causes a reasonable fear of bodily harm or damage to property;

- (iii) forced confinement; or
- (iv) sexual abuse;
- (e) "emergency intervention order" means an order made pursuant to section 3;
- (f) "order" means an emergency intervention order or a victim's assistance order;
- (g) "residence" means a place where a victim nonnally resides, and includes a residence that a victim has vacated due to domestic violence;
- (h) "respondent" means any person against whom an order is sought or made;
- (i) "victim" means a cohabitant who has been subjected to domestic violence by another cohabitant;
- (j) "victim's assistance order" means an order made pursuant to section 7.

**Emergency
intervention
order**

3(1) An emergency intervention order may be granted *ex parte* by a designated justice of the peace where that designated justice of the peace detennines that:

- (a) domestic violence has occurred; and
- (b) by reason of seriousness or urgency, the order should be made without waiting for the next available sitting of a judge of the court in order to ensure the immediate protection of the victim.

(2) In determining whether an order should be made, the designated justice of the peace shall consider, but is not limited to considering, the following factors:

- (a) the nature of the domestic violence;
- (b) the history of domestic violence by the respondent towards the victim;
- (c) the existence of immediate danger to persons or property;
- (d) the best interests of the victim and any child of the victim or any child who is in the care and custody of the victim.

(3) An emergency intervention order may contain any or all of the following provisions:

- (a) a provision granting the victim and other family members exclusive occupation of the residence, regardless of ownership;
- (b) a provision directing a peace officer to remove, immediately or within a specified time, the respondent from the residence;

- (c) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence to supervise the removal of personal belongings in order to ensure the protection of the victim;
- (d) a provision restraining the respondent from communicating with or contacting the victim and other specified persons;
- (e) any other provision that the designated justice of the peace considers necessary to provide for the immediate protection of the victim.
- (4) An emergency intervention order may be subject to any terms that the designated justice of the peace considers appropriate.
- (5) Subject to subsection 4(1), an emergency intervention order takes effect immediately.

4(1) A respondent is not bound by any provision in an order until he or she has notice of that provision. Notice of ord.,

(2) Notice of the provisions of an order is to be given in the form and manner prescribed in the regulations.

5(1) Immediately after making an emergency intervention order, a designated justice of the peace shall forward a copy of the order and all supporting documentation, including his or her notes, to the court in the prescribed manner. Confirmation by judg.

(2) Within three working days of receipt of the order and all supporting documentation by the court, or, if a judge is not available within that period, as soon as one can be made available, a judge shall:

- (a) review the order in his or her chambers; and
- (b) confirm the order where the judge is satisfied that there was evidence before the designated justice of the peace to support the granting of the order.

(3) For all purposes, including appeal or variation, an order that is confirmed by a judge pursuant to subsection (2) is deemed to be an order of the court granted on an *ex parte* application.

(4) Where, on reviewing the order, the judge is not satisfied that there was evidence before the designated justice of the peace to support the granting of the order, he or she shall direct a rehearing of the matter.

(5) Where a judge directs that a matter be reheard:

(a) the local registrar shall issue a summons, in the form and manner prescribed in the regulations, requiring the respondent to appear at a rehearing before the court; and

(b) the victim shall be given notice of the rehearing and is entitled, but not required, to attend and may fully participate in the rehearing personally or by an agent.

(6) The evidence that was before the designated justice of the peace shall be considered as evidence at the rehearing.

(7) At a rehearing, the onus is on the respondent to demonstrate, on a balance of probabilities, why the order should not be confirmed.

(8) Where the respondent fails to attend the rehearing, the order may be confirmed in the respondent's absence.

(9) At the rehearing, the judge may confirm, terminate or vary the order or any provision in the order.

Review of
order

6(1) At any time after a respondent has been served with an order, the court, on application by a victim or respondent named in the order, may:

(a) make changes in, additions to or deletions from the provisions contained in the order;

(b) decrease or extend the period for which any provision in an order is to remain in force;

(c) terminate any provision in an order; or

(d) revoke the order.

(2) On an application pursuant to subsection (1), the evidence before the designated justice of the peace or the court on previous applications pursuant to this Act shall be considered as evidence.

(3) The variation of one or more provisions of an order does not affect the other provisions in the order.

(4) Notwithstanding any other provision in this Act, an emergency intervention order continues in effect and is not stayed by a direction for a rehearing pursuant to section 5 or an application pursuant to subsection (1).

(5) Any provision in an order is subject to and is varied by any subsequent order made pursuant to any other Act or any Act of the Parliament of Canada.

Victim's
assistance
order

7(1) Where, on application, the court determines that domestic violence has occurred, the court may make a victim's assistance order containing any or all of the following provisions:

- (a) a provision granting the victim and other family members exclusive occupation of the residence, regardless of ownership;
 - (b) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the victim or other family members, including the residence, property, business, school or place of employment of the victim and other family members;
 - (c) a provision restraining the respondent from making any communication likely to cause annoyance or alarm to the victim,³ including personal, written or telephone contact with the victim and other family members or their employers, employees or co-workers or others with whom communication would likely cause annoyance or alarm to the victim;
 - (d) a provision directing a peace officer to remove the respondent from the residence within a specified time;
 - (e) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence to supervise the removal of personal belongings in order to ensure the protection of the victim;
 - (f) a provision requiring the respondent to pay the victim compensation for monetary losses suffered by the victim and any child of the victim or any child who is in the care and custody of the victim as a direct result of the domestic violence, including loss of earnings or support, medical and dental expenses, out-of-pocket losses for injuries sustained, moving and accommodation expenses, legal expenses and costs of an application pursuant to this Act;
 - (g) a provision granting either party temporary possession of specified personal property, including a vehicle, chequebook, bank cards, children's clothing, medical insurance cards, identification documents, keys or other necessary personal effects;
 - (h) a provision restraining the respondent from taking, converting, damaging or otherwise dealing with property that the victim may have an interest in;
 - (i) a provision recommending that the respondent receive counselling or therapy;
 - (j) a provision requiring the respondent to post any bond that the court considers appropriate for securing the respondent's compliance with the terms of the order;
 - (k) any other provision that the court considers appropriate.
- (2) A victim's assistance order may be subject to any terms that the court considers appropriate.

**Application
(ur an order**

8(1) An application for an order may be made by:

- (a) a victim;
- (b) a member of a category of persons designated in the regulations on behalf of the victim with the victim's consent; or
- (c) any other person on behalf of the victim with leave of the court or the designated justice of the peace.

(2) An application for an emergency intervention order is to be in the form and manner prescribed by the regulations and may include an application by telecommunication.

(3) At the hearing of an application for an order, the standard of proof is to be on a balance of probabilities.

**Confidential
information,
private
hearing, and
publication**

9(1) The local registrar of the court and a designated justice of the peace shall keep the victim's address confidential at the request of the victim or a person acting on the victim's behalf.

(2) The court may order that the hearing of an application or any part of a hearing be held in private.

(3) On the request of the victim, the court may make an order prohibiting the publication of a report of a hearing or any part of a hearing if the court believes that the publication of the report:

- (a) would not be in the best interests of the victim or any child of the victim or any child who is in the care and custody of the victim; or
- (b) would be likely to identify, have an adverse effect on or cause hardship to the victim or any child of the victim or any child who is in the care and custody of the victim.

**Effect of order
on property
and leasehold
interest**

10(1) An order does not in any manner affect the title to or an ownership interest in any real or personal property jointly held by the parties or solely held by one of the parties.

(2) Where a residence is leased by a respondent pursuant to an oral, written or implied agreement and a victim who is not a party to the lease is granted exclusive occupation of that residence, no landlord shall evict the victim solely on the basis that the victim is not a party to the lease.

(3) On the request of a victim mentioned in subsection (2), the landlord shall advise the victim of the status of the lease and serve the victim with notice of any claim against the respondent arising from the lease and the victim, at his or her option, may assume the responsibilities of the respondent pursuant to the lease.

11(1) A designated justice of the peace may issue a warrant where, on an *ex parte* application by a person designated in the regulations, the designated justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that:

Warrant
permitting
entry

- (a) the person who provided the information on oath has been refused access to a cohabitant; and
- (b) a cohabitant who may be a victim will be found at the place to be searched.

(2) A warrant issued by a designated justice of the peace authorizes the person named in the warrant to:

- (a) enter, search and examine the place named in the warrant and any connected premises;
- (b) assist or examine the cohabitant; and
- (c) seize and remove anything that may provide evidence that the cohabitant is a victim.

(3) Where the person conducting the search believes on reasonable grounds that the cohabitant may be a victim, that person may remove the cohabitant from the premises for the purposes of assisting or examining the cohabitant.

12 With leave of a judge of the Court of Appeal, an appeal from any order made pursuant to this Act may be made to the Court of Appeal on a question of law.

Appeal

13 An application for an order pursuant to this Act is in addition to and does not diminish any existing right of action for a victim.

Rights null
diminished by
Act

14(1) Notwithstanding subsection 13(2) of *The Justices of the Peace Act*, 1988, the chief judge of the Provincial Court of Saskatchewan may designate a presiding justice of the peace to hear and determine applications pursuant to this Act.

Designation
of presiding
justices of the
peace

(2) Where the chief judge designates a presiding justice of the peace to hear applications pursuant to this Act, the chief judge shall specify the place at which and period during which the presiding justice of the peace may hear those applications.

(3) The chief judge may delegate the exercise of the power to designate a presiding justice of the peace to hear applications pursuant to this Act to a supervising justice of the peace appointed pursuant to *The Justices of the Peace Act*, 1988, and the exercise of that power by the supervising justice of the peace is deemed to be an exercise by the chief judge.

Immunity **15** No action lies or shall be instituted against a peace officer, a local registrar or any other person for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them:

(a) pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations; or

(b) in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or the regulations or any duty imposed by this Act or the regulations.

Regulations **16** The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or phrase used in this Act but not defined in this Act;

(b) prescribing forms for the purposes of this Act;

(c) prescribing the procedures to be followed for applications, hearings and rehearings pursuant to this Act;

(d) prescribing the manner in which a designated justice of the peace is to forward a copy of an emergency intervention order and all supporting documentation to the court;

(e) designating persons or categories of persons who may make applications for an order on behalf of a victim with the victim's consent;

(f) designating persons or categories of persons who may apply for a warrant pursuant to section 11;

(g) prescribing the form and manner of providing any notice or summons required to be provided pursuant to this Act, including prescribing substitutional service and a rebuttable presumption of service;

(h) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;

(i) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

Coming into force. **17** This Act comes into force on proclamation.

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The Victims of Domestic Violence Regulations

being

Chapter V-6.02 Reg 1.

NOTE: .

All persons making use of this consolidation are reminded that it has no legislative sanction, that the amendments have been embodied only for convenience of reference and that the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. Please note, however, that in order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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Appendix

CHAPTER V-6.02 REG 1
The Victims of Domestic Violence Act

Title

1 These regulations may be cited as *The Victims of Domestic Violence Regulations*.

Interpretation

2 In these regulations:

- (a) "**Act**" means *The Victims of Domestic Violence Act*;
- (b) "designated person" means a member of a category of persons designated in section 3;
- (c) "justice" means a designated justice of the peace;
- (d) "peace officer" means:
 - (i) a member of the Royal Canadian Mounted Police;
 - (ii) a member of a police service, as defined in *The Police Act, 1990*;
 - (iii) an employee of the Royal Canadian Mounted Police or a police service, as defined in *The Police Act, 1990*, who is employed in the area of telecommunications;
- (e) "telecommunication" means any transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by a wire, radio, visual or electromagnetic system and includes communication by telephone.

2 Dec 94 cV-6.02 Reg 1.2.

Designated person.

3 The following categories of persons are designated for the purposes of clause 8(1)(b) of the Act:

- (a) Program co-ordinators of victims assistance programs that receive funding from the victims' fund established pursuant to *The Victims of Crime Act*;
- (b) community case workers funded under tripartite aboriginal policing agreements;
- (c) employees of the following who are officers pursuant to section 57 of *The Child and Family Services Act*:
 - (i) The Prince Albert Mobile Crisis Unit Co-operative Ltd.;
 - (ii) Saskatoon Crisis Intervention Service, Inc.;
 - (iii) Mobile Crisis Services, Inc.;
- (d) peace officers.

2 Dec 94 cV-6.02 Reg 1.83.

Application for an **emergency** intervention order

4(1) An application for an emergency intervention order must be made in person by:

- (a) a victim; or
- (b) a person on behalf of the victim with leave of the justice.

(2) An application for an emergency intervention order by a designated person may be made in person or by telecommunication.

(3) An order based on a telecommunication application has the same effect as an order based on an application made in person.

2 Dec 94 cY-6.02 Reg 114.

Bearing of the application

6(1) Where the justice is satisfied that the person making the application for an emergency intervention order is permitted to make the application pursuant to subsection 8(1) of the Act, the justice shall hear and consider:

- (a) the allegation of the applicant; and
- (b) the evidence of witnesses.

(2) Where the justice determines that an emergency intervention order should be made, the justice shall make that order in accordance with these regulations and section 3 of the Act.

2 Dec 94 cY-6.02 Reg 1 15.

Conduct of the hearing of an application

6 At the hearing of an application for an emergency intervention order, a justice may do any of the following as long as the hearing is concluded within 24 hours of the application being made:

- (a) adjourn the hearing from time to time;
- (b) where the taking of evidence by telecommunication becomes unsatisfactory, adjourn the hearing to a time and place where the justice can hear the evidence in person;
- (c) change the place of the hearing to accommodate any person giving evidence;
- (d) conduct the hearing in any manner that the justice considers appropriate and that is not inconsistent with the Act or these regulations.

2 Dec 94 cY-6.02 Reg 116.

Record to be made of evidence

7(1) At the hearing of an application for an emergency intervention order, a justice shall:

- (a) take the evidence under oath or pursuant to a promise to tell the truth in accordance with section 42 of *The Saskatchewan Evidence Act*; and

- (b) ensure that a record of the evidence of each person is made:
 - (i) in legible writing in the form of notes of the justice; or
 - (ii) in legible writing in the form of a statement of the person giving the evidence.
- (2) For the purposes of subsection (1):
 - (a) an oath may be administered by telecommunication; and
 - (b) an inquiry pursuant to section 42 of *The Saskatchewan Evidence Act* and a promise to tell the truth pursuant to that section may be made by telecommunication.

2 Dec 94 cV-6.02 Reg 187.

Evidence to be taken in writing

- 8(1) Where a person gives evidence at a hearing for an emergency intervention order, the justice shall:
- (a) have that person read the record containing that person's evidence or have the evidence read back to the person who gave it; and
 - (b) sign and date the record containing that person's evidence.
- (2) Where the evidence of more than one person is taken in writing, the justice may sign at the end of each person's evidence or at the end of all of the evidence.

2 Dec 94 cV-6.02 Reg 188.

Inability of the justice to continue

- 9 Where a justice begins to hear an application for an emergency intervention order and is unable to continue the hearing for any reason, another justice may:
- (a) continue hearing the application where the evidence recorded by the previous justice pursuant to section 7 is available for review by the justice; or
 - (b) begin hearing the application as if no evidence had been taken where the evidence recorded pursuant to section 7 is not available for review by the justice.

2 Dec 94 cV-6.02 Reg 189.

Form of the order

- 10(1) Form A of the Appendix is prescribed as the form of the emergency intervention order.
- (2) The order consists of four parts:
- (a) Part 1 is the original completed by a justice;
 - (b) Part 2 is the copy to be served on the respondent;
 - (c) Part 3 is the copy to be provided to the victim; and
 - (d) Part 4 is the copy to be used by a peace officer for proof of service after Part 2 of the order has been served on the respondent.

2 Dec 94 cV-6.02 Reg 1 10.

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Completion of the order

11 Where a justice decides that an emergency intervention order should be made, the justice shall:

- (a) complete Part 1 of the order; and
- (b) either:
 - (i) complete Parts 2 to 4 of the order; or
 - (ii) direct a peace officer to complete Parts 2 to 4 of the order with the same information and provisions that are contained in Part 1 of the order completed by the justice.

2 Dec 94 cV-6.02 **Reg 1111.**

Service of the order

12(1) The justice shall direct a peace officer to personally serve Part 2 of the emergency intervention order on the respondent as soon as is reasonably possible.

- (2) The justice shall arrange for Part 3 of the order to be provided to the victim.
- (3) Except where a peace officer completes Parts 2 to 4 of the order pursuant to subclause 11(b)(ii), a justice shall provide a peace officer with Parts 2 and 4, and Part 3 if necessary, by:

- (a) forwarding those Parts to a peace officer personally, by courier delivery or by ordinary mail;
- (b) transmitting those Parts to a peace officer by telecommunication that produces a written record; or
- (c) directing a peace officer to complete those Parts with the same information and provisions that are contained in Part 1 of the order completed by the justice.

- (4) An order completed by a peace officer pursuant to this section or section 11 has the same effect as the order completed by the justice.

2 Dec 94 cV-e.02 **Reg 1 s12.**

Substitutional service of an order

13(1) Where it is impractical for any reason for a peace officer to personally serve a respondent with an emergency intervention order, a peace officer may apply to a justice, in person or by telecommunication, for an order that authorizes substitutional service of the emergency intervention order.

- (2) An application for substitutional service is to be supported by evidence setting out why personal service is impractical and proposing a method of service that is likely to bring notice of the order to the respondent.

(3) In making an order that authorizes substitutional service of an emergency intervention order, the justice shall direct, on any terms that the justice considers appropriate, any of the following methods of substitutional service that the justice is satisfied is likely to bring notice of the order to the respondent:

- (a) serving a member of the respondent's family or another person who is able to bring the order to the respondent's attention;

- (b) serving a person with whom the respondent is residing or leaving the order at the place where the respondent is residing;
 - (c) posting the order in a public place;
 - (d) publishing the order in a newspaper;
 - (e) any other method the justice considers appropriate.
- (4) The justice shall forward the order for substitutional service and his or her notes of the evidence supporting the order to the court at the judicial centre mentioned in section 16.
- (5) Service of an emergency intervention order in accordance with the terms of the order for substitutional service is deemed to be personal service on the respondent.

2 Dec 94 cV-S.02 Reg 1 s13.

Service of aD order that has been varied

14 Where an emergency intervention order is varied or terminated pursuant to subsection 5(9) of the Act, unless the victim or respondent is present in court, the order is to be served:

- (a) on the victim personally and on the respondent personally by a peace officer; or
- (b) if it is impractical for any reason to serve either or both of the parties personally, in any other manner ordered by the court.

2 Dec 94 cV-S.02 Reg 1 s14.

Copy of order sufficient notice

15 A respondent is bound by the provisions in an emergency intervention order as soon as he or she receives a copy of the order, whether or not it was personally served by a peace officer.

2 Dec 94 cV-S.02 Reg 1 s15.

Where material to be forwarded

16 Where a justice makes an emergency intervention order, the material mentioned in subsection 5(1) of the Act is to be forwarded by the justice to the local registrar of the court at the judicial centre nearest to where the victim resides:

- (a) by personal delivery;
- (b) by ordinary mail;
- (c) by courier delivery; or
- (d) by telecommunication that produces a written record.

2 Dec 94 cV-S.02 Reg 1 s16.

Service of victim's assistance order

17 For the purposes of section 4 of the Act, notice of a victim's assistance order or an order made pursuant to subsection 6(1) of the Act may be given to the respondent:

- (a) in any manner permitted by the Queen's Bench Rules of Court; or
- (b) by oral notice by the judge if the respondent is present in the court.

2 Dec 94 cV-6.02 Re, 1117.

Proof of service

18(1) Service of a document may be proved:

- (a) by the oral testimony or affidavit of the person who served it; or
- (b) in the case of the service of an emergency intervention order, by filing a copy of Part 4 of the order with the certificate of service completed by the peace officer serving the order.

(2) A peace officer who serves an emergency intervention order on a respondent shall:

- (a) retain Part 4 of the order with the completed certificate of service; and
- (b) forward a copy of Part 4 of the order with the completed certificate of service to the court at the judicial centre designated by the justice as soon as is practicable after service:
 - (i) by personal delivery;
 - (ij) by ordinary mail;
 - (iii) by courier delivery; or
 - (iv) by telecommunication that produces a written record.

2 Dec 94 cV-6.02 Re, 1118.

Summons

19(1) A summons issued pursuant to subsection 5(5) of the Act for a rehearing is to be in Form B of the Appendix and is to:

- (a) be directed to the respondent;
- (b) require the respondent to attend court at a time and place stated in the summons; and
- (c) be served on the respondent personally by a peace officer.

(2) Where the original order that the rehearing is based on was served pursuant to an order for substitutional service made pursuant to section 13, the summons may be served pursuant to that same order for substitutional service, unless the judge who directs the rehearing orders otherwise.

(3) Where the original order that the rehearing is based on was not served pursuant to an order for substitutional service and a peace officer is unable to personally serve the respondent before the return date of the summons, the judge may make any order regarding service that the judge considers appropriate.

(4) Service of a summons in accordance with the terms of an order mentioned in subsection (2) or pursuant to any directions given by a judge pursuant to subsection (3) is deemed to be personal service on the respondent.

2 Dec 94 cV-6.02 Reg 1 s19.

Application for ~~warrant permitting entry~~

20(1) For the purposes of section 11 of the Act, peace officers are designated as a category of persons who may apply for a warrant.

(2) The person applying for a warrant shall indicate in the application:

(a) the number of times in the previous ~~six~~ months that an application has been made for a warrant regarding that cohabitant at ~~those~~ premises; and

(b) if the application was withdrawn or if no warrant was granted, the date that each application was made and the justice to whom each application was made.

2 Dec 94 cV-6.02 Rerl .20.

~~Coming into~~ force

21 These regulations come into force on the day on which *The Victims of Domestic Violence Act* comes into force.

2 Dec 94 cV-e.02 Rerl .21.

Appendix
FORMA
(Section 3 of The Victims of Domestic Violence Act)

Emergency Intervention Order

RE:

(Name of Victim)

AND

(Name of Respondent)

(Address)

TO THE RESPONDENT:

You are subject to this EMERGENCY INTERVENTION ORDER. This ORDER was made by a designated justice of the peace pursuant to The Victims of Domestic Violence Act.

YOU MUST OBEY THE PROVISIONS OF THIS ORDER. Failure to obey this order is an offence under the Criminal Code with punishment, on conviction, of up to two years imprisonment.

You have the right to apply to the Court of Queen's Bench at [] to either set aside or change this ORDER.

YOU SHOULD IMMEDIATELY CONTACT A LAWYER for advice as to what your rights are and you are required to do respecting the attached ORDER.

PROVISIONS:

Having heard the evidence, I find that the victim is in need of immediate protection pursuant to section 3 of The Victims of Domestic Violence Act.

I order that:

- 1. The victim is granted exclusive occupation of the following residence:
2. A peace officer remove the respondent from the following residence:
3. The respondent may not communicate with or contact the victim and/or any of the following persons:
4. The respondent may communicate with and/or contact the victim or any of the following persons, but only on the following terms:
5. A peace officer accompany the respondent designated below to the residence within the time designated below to supervise the removal of personal belongings:
6.

This ORDER remains in force until:

(month) (day) (year)

Dated at

Saskatchewan, OD,

, 19

Cl.m. p.m.

(month)

(time)

(Signature of Justice of the Peace)

Confirmed by The Honourable M

Justice

(Justice of the Peace Number)

Local Registrar
Court of Queen's Bench, Family Law Division

PART 1 - Original (Court Copy)

2 Dec 94 cV-6.02 Reg 1.

FORMA
(Section 3 of The Victims of Domestic Violence Act)
Emergency Intervention Order

RE:

(Name of Victim)

AND

(Name of Respondent)

TO THE RESPONDENT:

You are subject to this EMERGENCY INTERVENTION ORDER. This ORDER was made by a designated justice of the peace pursuant to The Victims of Domestic Violence Act.

YOU MUST OBEY THE PROVISIONS OF THIS ORDER. Failure to obey this order is an offence under the Criminal Code with punishment, on conviction, of up to two years imprisonment.

You have the right to apply to the Court of Queen's Bench at _____ to either let aside or change this ORDER.

YOU SHOULD IMMEDIATELY CONTACT A LAWYER for advice as to what your rights are and as to what you are required to do respecting the attached ORDER.

PROVISIONS:

Having heard the evidence, I find that the victim is in need of immediate protection pursuant to section 3 of The Victims of Domestic Violence Act.

I order that:

- 1. The victim is granted exclusive occupation of the following residence: _____
- 2. A peace officer remove the respondent from the following residence: _____
- 3. The respondent may not communicate with or contact the victim and/or any of the following persons: _____
- 4. The respondent may communicate with and/or contact the victim or any of the following persons, but only on the following terms: _____
- 5. A peace officer accompany the person designated below to the residence within the time designated below to supervise the removal of personal belongings: _____
- 6. _____

This ORDER remains in force until: _____ (month) _____ (day) _____ (year)

Dated at _____, Saskatchewan on _____ (month) _____ (day)

(Signature of Justice of the Peace or Peace Officer) Justice of the Peace Number

PART 2 - Respondent's Copy

FORMA
(Section 3 of The Victims of Domestic Violence Act)
Emergency Intervention Order

RE:

(Name of Victim)

AND

(Name of Respondent)

TO THE RESPONDENT:

You are subject to this EMERGENCY INTERVENTION ORDER. This ORDER was made by a designated justice of the peace pursuant to The Victims of Domestic Violence Act.

YOU MUST OBEY THE PROVISIONS OF THIS ORDER. Failure to obey this order is an offence under the Criminal Code with punishment, on conviction, of up to two years imprisonment.

You have the right to apply to the Court of Queen's Bench at to either set aside or change this ORDER.

YOU SHOULD IMMEDIATELY CONTACT A LAWYER for advice as to what your rights are and as to what you are required to do respecting the attached ORDER.

PROVISIONS:

Having heard the evidence, I find that the victim is in a need of immediate protection pursuant to section 3 of The Victims of Domestic Violence Act.

I order that:

- 1. The victim is granted exclusive occupation of the following residence:
2. A peace officer remove the respondent from the following residence:
3. The respondent may not communicate with or contact the victim and/or any of the following persons:
4. The respondent may communicate with and/or contact the victim or any of the following persons, but only on the following terms:
5. A peace officer accompany the person designated below to the residence within the time designated below to supervise the removal of personal belongings:
6.

This ORDER remains in force until: (month)

Dated at Saskatchewan on .19, .19 a.m. p.m. (day) (time)

(Signature of Justice of the Peace or Peace Officer) (Justice of the Peace Number)

PARTS - Victim, Copy

FORMA
(Section 3 of The Victims of Domestic Violence Act)
Emergency Intervention Order

RE:

(Name of Victim)

AND

(Name of Respondent)

(Address)

TO THE RESPONDENT:

You are subject to this EMERGENCY INTERVENTION ORDER. This ORDER was made by a designated justice of the peace pursuant to The Victims of Domestic Violence Act.

YOU MUST OBEY THE PROVISIONS OF THIS ORDER. Failure to obey this order is an offence under the Criminal Code with punishment, on conviction, of up to two years imprisonment.

You have the right to apply to the Court of Queen's Bench at to either set aside or change this ORDER.

YOU SHOULD IMMEDIATELY CONTACT A LAWYER for advice as to what your rights are and as to what you are required to do respecting the attached ORDER.

PROVISIONS:

Having heard the evidence, I find that the victim is in need of immediate protection pursuant to section 3 of The Victims of Domestic Violence Act.

I order that:

- 1. The victim is granted exclusive occupation of the following residence:
2. A peace officer remove the respondent from the following residence:
3. The respondent may not communicate with or contact the victim and/or any of the following persons:
4. The respondent may communicate with and/or contact the victim or any of the following persons, but only on the following terms:
5. A peace officer accompany the petitioner designated below to the residence within the time designated below to supervise the removal of personal belongings:
6.

This ORDER remains in force until: (month) (day) (year)

Dated at Saskatchewan on _____, 19____ a.m./p.m. (month) (day) (time)

(Signature of Justice of the Peace or Peace Officer) (Justice of the Peace Number)

PART 4 - Peace Officer's Copy (Certificate of Service on reverse)

CERTIFICATE OF SERVICE

I, _____, certify that on _____ day of _____, 19____, I served the respondent, _____ at _____ with a copy of the emergency intervention order (reverse side).

OR

I served the emergency intervention order (reverse side) in accordance with the order for substitutional service as follows:

Dated at _____, Saskatchewan on _____, 19____ (day)

(Peace Officer)

2 Dec 94 cV-6.02 Reg 1.

FORMB
(Section 16 of The Victims of Domestic Violence Act)

Summons

You are subject to the attached EMERGENCY INTERVENTION ORDER. The ORDER was made by a designated justice of the peace on _____, 19____
(month) (day)

The Court of Queen's Bench has ordered a rehearing to determine whether or not the ORDER should be confirmed. You must appear before a judge of the Court of Queen's Bench at: _____

(State judicial centre and address)
Your court appearance is scheduled for _____ at _____
(date) (time)

This court appearance will give you the opportunity to explain why you think that the attached ORDER should not be confirmed.

Dated at _____ *Saskatchewan on _____, 19____.

(Local Registrar)

The court may confirm the EMERGENCY INTERVENTION ORDER if you do not attend this rehearing. The EMERGENCY INTERVENTION ORDER continues in force unless the court changes it at the rehearing. IT IS AN OFFENCE UNDER THE CRIMINAL CODE TO DISOBEY THIS ORDER.

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