

# Sexual and Domestic Violence Protocol for Magistrates' Court Staff

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## **1.00 OBJECTIVE**

- 1.1 The objective of this protocol is to **provide guidance** for Magistrates' Court staff to enable them to assist **victims** of domestic violence who wish to initiate proceedings in the Magistrate's Court.
- 1.2 On account of the **peculiar vulnerability of victims** of sexual and domestic violence, this protocol provides general guidance on approaches to responding victims and information available. The protocol aims to provide basic information in outline which may need to be adapted and modified in order to be effectively implemented in the various Magistrates' Court Registries.
- 1.3 Sexual and domestic violence raise sensitive issues. All agencies and communities need to work in harmony to break the cycle of domestic violence, help the victims take control of their lives and to help perpetrators understand the consequences of their abusive conduct, discontinue their abusive behaviour and reform their approaches to dealing with conflict in domestic relationships.

## **2.00 GUIDING PRINCIPLE**

- 2.1 Every individual has the basic right to a life free from fear and violence. **All forms of violence and intimidation constitute a violation** of the individual's basic human rights. Women and girls are the predominant victims of sexual and domestic violence. Men, boys, the elderly, persons with disabilities and persons of different sexual orientations are also victims of sexual and domestic violence.
- 2.2 Sexual and domestic violence committed against women and girls in particular is a hindrance to the achievement of the objectives of equality, development and peace, and must be condemned in all its forms.
- 2.3 Combating sexual and domestic violence is not the responsibility of any one sector, but a collective responsibility. Each individual, community and organisation must play an active role in assisting victims and reducing the prevalence of sexual and domestic violence.

## **3.00 ROLE OF MAGISTRATES' COURT STAFF**

Many victims of domestic violence feel helpless and believe that they are alone. The role of the Magistrates' Court staff is to help victims by providing them with easily understood, accurate, relevant and timely information, so that they can understand the legal action that can be taken and make an informed choice about what proceedings, if any, they wish to initiate. It is

important to be sensitive when dealing with victims. By giving them the opportunity to choose their course of action you are helping them regain some control over their situation.

## **4.00 INTERVENTION GUIDELINES**

In assisting with victims of domestic violence the following steps should be taken –

- 4.01 **Explain to the victim what action can be taken in the Magistrates’ Court.** Many victims are not aware of what the Magistrate can do to assist. Explain the various types of proceedings that are available in the Magistrates’ Court. It is particularly important to note the difference between civil and criminal proceedings. See ..... Below for further guidance on “Proceedings available in the Magistrates’ Court.”
- 4.02 **Explain processes to parties.** The steps to be taken to bring the matter before the Magistrate and the possible outcome may be particularly relevant in assisting the victim to determine what action she wishes to take. Inform the victim of what documents must be filed, what information may be required, when the matter is likely to be called up in court, what to expect in court. After the matter is concluded, explain any order to both victim and respondent, separately, so that they know how the order affects them. .... below gives further guidance on explaining relevant processes to the parties.
- 4.03 **Assist in filling out forms.** Where criminal charges are filed the police will complete all paperwork. However where proceedings are filed under the *Domestic Violence Act* the victim is responsible for filing all paper work. The *Domestic Violence Act* makes provision for forms to be filled out in order to make the application before the Magistrate. .... below gives further details on filling out forms.
- 4.04 **Maintain objectivity and sensitivity.** Your role is not to take sides with either victim or respondent, but rather to assist the parties through the court process. When assisting the parties it is important to do so without expressing any views on the likely outcome of the matter. Do not be judgmental. Be supportive and mindful of the fear, trauma and confusion that the parties may be experiencing. Do not disclose any information provided by victim or the respondent. .... below provides further guidance on the importance of objectivity and sensitivity.
- 4.05 **Be mindful of your own and the parties’ safety.** Perpetrators of domestic violence may be a threat to the safety of the victim as well as Magistrates’ Court staff assisting her. Take adequate precautions for your own safety and seek the assistance of the Police or orderly if necessary. It is especially important for the victim’s safety that sensitive and confidential information is not disclosed to the respondent. See ..... Below for safety and confidentiality guidelines.
- 4.06 **Inform parties of support services.** Other agencies may be able to assist the victim and/or respondent. Information on the services offered by other agencies may be of invaluable assistance to the parties. .... below provides information on the

relevant agencies that assist victims of domestic violence, including a brief description of the services offered.

## 5.00 WHAT IS DOMESTIC VIOLENCE?

5.1 Domestic violence occurs when a family member intimate partner or former intimate partner attempts to physically or psychologically dominate another. It is **intended to control, overpower or dominate** the victim and includes any kind of abusive behaviour that occurs in the home, for example in the following types of relationships (see section 3 Domestic Violence Act):

- parent and child
- siblings, e.g. brother and sister
- relatives or family members, e.g. cousins, aunt, uncle, niece, nephew, grandparent, grandchild
- sexual relationships, including boyfriend/girlfriend, visiting relationships, former intimate partners and persons in same sex relationships. It includes physical, sexual, psychological and verbal abuse, financial control and/or financial restriction, as well intimidation and harassment.

5.2 Types of abuse that give rise to domestic violence include:

5.2.1 **Physical abuse** – the **intentional use of bodily or actual force** with the potential for causing injury, harm, disability, or death, e.g. hitting, shoving, biting, restraint, kicking, or use of a weapon. It includes indirect physical abuse, which may include destruction of objects, striking or throwing objects near the victim, or harm to the victim. See section 2(o) and 2(h)(i)(B) and (D) Domestic Violence Act.

5.2.2 **Psychological abuse** – also called emotional abuse. See section 2(q) Domestic Violence Act. This is a form of abuse characterized by a person subjecting or exposing another to behaviour that is **mentally harmful**. Psychological abuse involves the wilful infliction of mental or **emotional anguish** by **threat, humiliation**, or other verbal (see 5.2.3 below) and non-verbal conduct. It is often associated with situations of power imbalance and includes preventing the victim from seeing friends and relatives, actively sabotaging the victim's social relationships, and isolating the victim from social contacts.

5.2.3 **Verbal abuse** – a form of abusive behaviour involving the use of language. It is a form of **profanity** in that it can occur with or without the use of expletives. It includes **name calling**, spoken words as well as abusive words in written form that **cause annoyance**. See section 2(h)(i)(A) and 2(h)(vi) Domestic Violence Act.

5.2.4 **Financial control or restriction**, also referred to as **economic abuse** – This occurs when the abuser has **control over the victim's money** and other economic resources. Usually, this involves putting the victim on a strict "allowance," withholding money at will and **forcing the victim to beg** for the money until the abuser gives them some money and **demanding money from the victim**. It is common for the victim to receive less money as the abuse continues. This also includes (but is not limited to) preventing the victim from finishing education or

obtaining employment, or intentionally squandering or misusing communal resources. See section 2(q) Domestic Violence Act.

- 5.2.5 **Intimidation** – Intimidation entails intentional behaviour "which would cause a person of ordinary sensibilities" **fear of injury or harm**. It is not necessary to prove that the behaviour was so violent as to cause terror or that the victim was actually frightened. It is sufficient to show that the violence, conduct or threat was **calculated to coerce the victim into submission** to the perpetrator. See section 2(k) Domestic Violence Act.
- 5.2.6 **Harassment** – This refers to a wide spectrum of offensive behaviour. The term commonly refers to **behaviour intended to disturb or upset**. Generally, it refers to behaviours which *are* found threatening or disturbing. See section 2(h) Domestic Violence Act.
- 5.2.7 **Passive abuse** – This is a form of **covert, subtle and veiled abuse** that often leads to physical violence. It includes victimisation,<sup>1</sup> procrastination,<sup>2</sup> forgetfulness,<sup>3</sup> ambiguity, neglect, spiritual and intellectual abuse. See section 2(k) and (q) Domestic Violence Act.
- 5.3 Under the *Domestic Violence Act*, cap 11:09 domestic violence includes, but is not limited to, the following types of conduct (see section 5(1) Domestic Violence Act):
- (a) Following the victim;
  - (b) Stalking places that the victim visits often (e.g. home, school, work, the gym);
  - (c) Taking away or hiding the victim's clothes or personal effects;
  - (d) Threatening the life or safety of the victim or a person the victim cares for;
  - (e) Threatening to destroy the victim's property, belittling and demeaning the victim;
  - (f) Name calling; and
  - (g) Making unwelcome phone calls sending unwelcome email or letters to the victim.
- 5.4 In many cases victims may be subjected daily to non-physical forms of abuse, with physical abuse occurring only occasionally. **Non-physical** forms of abuse are just as, or even **more, painful and destructive than physical** abuse and are often a forerunner to physical abuse.
- 5.5 Women and children are the most common victims of domestic violence. However men, elderly persons and persons in same sex relationships can also be victims of domestic violence (See *Guiding Principles* at 2.00 above).

## **6.00 ORDERS THE COURT CAN MAKE**

- 6.1 Applications under the *Domestic Violence Act* are made to the Magistrate's Court. The Act empowers the Magistrate to make three types of orders – protection orders, occupation orders, tenancy orders and ancillary orders.

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<sup>1</sup> Punishing or taking revenge on the victim for doing something that displeases the perpetrator/abuser.

<sup>2</sup> Taking an inordinately long time to do something that the victim asks or provide something that the victim needs, with the intention of keeping the victim dependent on the perpetrator.

<sup>3</sup> This entails the perpetrator pretending that s/he has forgotten to do something that would benefit the victim, again with the intention of keeping the victim dependent on the perpetrator.

- 6.1.1 **Protection orders** can be made under section 5 of the *Domestic Violence Act*. The Magistrate can make a protection order when satisfied that the perpetrator has engaged in physical, sexual, verbal or psychological abuse. Protection orders **prohibit the perpetrator from engaging in specified conduct or compel the perpetrator to do specified things**. Section 6 of the *Domestic Violence Act* stipulates the conditions that can be attached to a protection order, including –
- Ordering the perpetrator to contribute towards the victim’s or a child’s **maintenance**
  - Granting the victim **custody of children**
  - Ordering the perpetrator to stay **away from the victim’s or a child’s** home, school, work or other place that the victim or child goes
  - **Preventing** the perpetrator from **following or contacting the victim**
  - Ordering the perpetrator to **return property** to the victim
  - Ordering the perpetrator to undergo counselling and therapy
- 6.1.2 **Occupation orders** are authorised by section 8 of the *Domestic Violence Act*. Occupation orders direct the **perpetrator to remove** from the home and gives the **victim the right to live in the home**, regardless of who owns the home (including instances where the home is owned by the perpetrator) (see also section 9 *Domestic Violence Act*). Occupation orders can be made only where a protection order is also made.
- 6.1.3 **Tenancy orders** are made when the home that the victim and perpetrator live in is rented in the name of the perpetrator. See section 11 of the *Domestic Violence Act*. The tenancy order **transfers the tenancy from the perpetrator to the victim**. Even after the tenancy is transferred to the victim, the court can order the **perpetrator to contribute to the payment of the rent**. Tenancy orders can be made only when a protection order is also made.
- 6.1.4 **Ancillary orders** can be made along with occupation or tenancy orders under section 15 of the *Domestic Violence Act*. Ancillary orders empower the magistrate to provision for the **use by the victim of furniture, household appliances and household effects**.
- 6.2 The court can also make **interim orders** (Section 27 *Domestic Violence Act*) that **protect the victim while the Magistrate is hearing the matter** up to the moment when the Magistrate makes a final decision. The court can make interim protection, interim occupation and interim tenancy orders where it is satisfied that the orders are necessary to ensure the safety of the victim while the court is hearing the matter. Interim orders are **effective for 14 days and can be renewed** by the Magistrate each time the parties appear before the Court.
- 6.3 In addition to interim orders, the Magistrate can make an **ex parte interim protection order** under section 5(3) of the *Domestic Violence Act*. This provision allows the Magistrate the make an **interim protection order** as soon as the application is filed, even **before the perpetrator is served** with the notice of the proceedings.

## **7.00 ACTIONS AVAILABLE IN THE MAGISTRATES’ COURT**

- 7.1 Domestic violence is a violation of an individual's fundamental right to a life free from violence. In addition to constituting a violation of the person, it may also constitute a criminal offence, depending on the type of the violence that takes place. The Magistrates' Court deals with perpetrators of domestic violence in either criminal actions where perpetrator is charged or in civil proceedings under the *Domestic Violence Act*. The action taken by the victim, i.e. criminal or civil action, will depend on what the victim wants to happen at the end of the matter.
- 7.2.1 **Criminal actions** can be instituted where the abuse that the perpetrator has committed is punished by the criminal laws of Guyana. Currently criminal actions are available for physical violence, threats against the victim or another person, damage to property and stealing or taking away the property or belongings of the victim or another person.
- 7.2.2 Where criminal action is taken the perpetrator is prosecuted by the police. The police control criminal actions. The victim must work along with the police in prosecuting the matter. If the perpetrator is found guilty he may be sent to prison and/or fined, depending on the penalty for the criminal offence that he is charged with.
- 7.2.3 Because of the possibility of the perpetrator being sent to prison at the end of a criminal trial a high standard of proof is required for him to be found guilty. Before the Magistrate can find the perpetrator guilty, the Magistrate must be satisfied *beyond reasonable doubt* that the perpetrator is guilty of a criminal offence.
- 7.3 **Civil action** can be taken privately by the victim under the *Domestic Violence Act* or an application for **maintenance for a wife or child** of the perpetrator.
- 7.3.1.1 An action under the *Domestic Violence Act* will not result in the perpetrator being sent to prison. In an action under the *Domestic Violence Act* the Magistrate can make an interim protection order, an interim occupation order, an interim tenancy order, a protection order, an occupation order, a tenancy order or ancillary orders. More detail about what these orders entail and when they are made is given above at **6.00 "Orders the Court can make"**.
- 7.3.1.2 When civil proceedings are taken under the *Domestic Violence Act*, the victim is responsible for filing the action, collecting evidence, presenting the evidence to the court and calling witnesses to court to give evidence. Because here the perpetrator is not at risk of being sent to prison, unless he disobeys an order of the court, a lower standard of proof is required before the Magistrate makes an order. The Magistrate must be satisfied *on the balance of probabilities* that the victim is in danger and that the perpetrator has abused the victim.
- 7.3.1.3 The advantage of making an application under the *Domestic Violence Act* is that the **Act covers** a much **wider range of conduct** than the criminal law. An application can be made under the *Domestic Violence Act* in relation to the types of abuse referred to above at **5.00 "What is Domestic Violence"**.
- 7.3.2 An application can be made to the magistrate for **maintenance for a child or the wife** of the perpetrator. This is very useful if the victim is not working and cannot afford to maintain the children or herself. The Magistrate can order the perpetrator to pay between \$500 and \$25,000 per week for each child and the victim. See section 36 *Summary Jurisdiction (Magistrates') Act* cap 3:05 and section 6 *Maintenance Act* cap 45:03.

- 7.3.2.1 In order to qualify for maintenance the victim must prove that the perpetrator –
- (a) was convicted in the Magistrates court for aggravated assault
  - (b) forced the victim to have sexual intercourse when the perpetrator knew he was suffering from a sexually transmitted infection
  - (c) has forced the victim into prostitution
  - (d) is an alcoholic or drug addict
  - (e) has deserted the victim
  - (f) is cruel to the victim
  - (g) has deliberately refused to maintain the victim or his child
- 7.3.2.2 Orders can be made for the maintenance of children younger than 16 years old or up to 18 years old if the child is in full time education. The Magistrate can also make an order for custody of a child.
- 7.3.3 The Magistrate can make orders for maintenance and custody when hearing an application under the *Domestic Violence Act*. When applying for the protection order under the *Domestic Violence Act* the victim can indicate that she would like maintenance for herself and the children and also that she would like the Magistrate to make an order giving her custody of the children. An application can be made under the *Domestic Violence Act* for a protection order in addition to a separate application for maintenance.
- 7.4 Both criminal prosecution and civil action under the *Domestic Violence Act* can be taken at the same time, in relation to the same victim and perpetrator and in relation to the same incident. If this is done the perpetrator may be sent to prison if found guilty, and upon release a protection order or other order under the *Domestic Violence Act* may be in force to ensure the continued safety of the victim.

## **8.00**    ***EXPLAIN PROCESSES TO THE PARTIES***

- 8.1 **Criminal actions** are conducted by the police prosecutors. If the victim would like the perpetrator to be charged with a criminal offence and prosecuted then she must make a report to the police station, give a report and wait for them to file charges. It is important that the victim follows up with the police regarding the matter to assist the police in collecting evidence and preparing for trial. The police will present evidence and call witnesses in the matter.
- 8.2 Actions under the **Domestic Violence Act** are conducted by the victim. Therefore the victim must ensure that everything is done so that the matter runs smoothly in court.
- 8.2.1 The victim is responsible for **filing the application** under the *Domestic Violence Act*. In order to do this the application form and the notice of proceedings must be filed in the relevant Magistrates' Court registry. Sections 17 and 21 *Domestic Violence Act*.
- 8.2.2 When the matter is filed the Magistrates' Court registry will write on the notice of proceedings the **date when the matter will be heard** by the Magistrate. That must be within seven days of the application being filed. Usually, the matter must be served on the Respondent at least three days before the matter is to be called up in court. Section 20 *Domestic Violence Act*.



- 8.2.3 After the matter has been filed it must be **served on the perpetrator** so that he is aware that the application is made and can be present in court when the Magistrate is hearing the matter. The victim/applicant must go with a bailiff to serve the matter on the perpetrator/respondent. The bailiff will make a record that the matter has been served on the perpetrator/respondent so that the Magistrate can be satisfied that the perpetrator/respondent is aware of the proceedings. Section 21 *Domestic Violence Act*.
- 8.2.4 In special cases where the Magistrate believes that the victim will be in greater danger as soon as the perpetrator knows that the victim has taken the matter to court, the Magistrate can **hear the matter** and **make an order before the perpetrator is served**. See section 5(3) *Domestic Violence Act*. The Magistrate can make an order so that when the perpetrator/respondent is served and becomes aware of the application, there is already an order preventing the perpetrator from abusing the victim.
- 8.2.5 When the Magistrate hears the matter and before the matter is ended the Magistrate can make and **interim protection, interim occupation or interim tenancy** order. The interim orders protect and safeguard the victim whilst Magistrate hears evidence, the parties and decides what final orders should be made.
- 8.2.6 Once an order is made by the Magistrate, whether it is an interim order or a final order, the perpetrator/respondent cannot do any of the things that are set out in the order, and is compelled to do anything that the order says he must do. If he disobeys the order he can be arrested by the police.
- 8.2.7 When an order is made bailiff must serve the perpetrator/respondent with the order so that the Magistrate can be satisfied that the perpetrator/respondent is aware of the order. The victim should also leave a copy of the order at the police station closest to her home. In that case the police are aware of the order and can assist the victim if the perpetrator/respondent disobeys the order by doing something that he cannot do or fails to do something that he should do.
- 8.3 To make an application for **maintenance** the victim must assist the magistrates' court staff in filling out a summons and provide an original copy of the birth certificate of the child/ren that she is seeking maintenance for. If she is seeking maintenance for herself, she must provide an original copy of her marriage certificate. The certificates are returned at the end of the matter.
- 8.3.1 The summons indicates the date when the Magistrate will hear the matter. The victim must go with a police officer to serve the summons on the perpetrator/respondent. When the respondent appears in court the Magistrate will hear from both sides and their witnesses whether to order maintenance and how much should be ordered. The Magistrate can make an **interim maintenance order** to order the perpetrator/respondent to pay maintenance the first time the parties appear in court, while the matter is going on and before finally decides what order to make.
- 8.3.2 If the Magistrate makes an order the perpetrator must pay the money into the Magistrates' court each week. The victim must also collect the money from the Magistrates' court. If the perpetrator does not pay the money the victim can obtain a warrant for him to be arrested until he pays all the money that he should have paid until the time of his arrest.

## **9.00 ASSIST IN FILLING OUT FORMS**

- 9.1 Assistance in filling out forms would be greatly appreciated by victims. In the Magistrate's court assistance may be given in filling out forms for the application for maintenance or for applications for protection or other orders under the *Domestic Violence Act*. Always speak in a non-intimidating tone of voice. Your assistance and attitude at this stage may greatly influence the victim's decision whether to continue with a court matter or forget about going to court.
- 9.2 Explain to the victim what information the form requires and why that information is required. When the victim understands why that information is required s/he will be in a better position to give appropriate and relevant information.
- 9.3 Ideally the victim should fill out forms. However this is not always possible. The victim may not understand what information the form requires, the victim may not be able to read or write, or the victim may be too distressed to complete for form. If you do fill out the form for the victim it is important to use their own words and not your interpretation of what has been said. Clarify that the information that you have filled in is accurate by reading out the answers or asking the victim to read it before signing the form.
- 9.4 Where appropriate, advise the victim to seek legal representation. If the victim cannot afford legal representation she may get legal representation from the Georgetown Legal Aid Clinic or the Guyana Legal Aid Clinic. If the victim is not sure or cannot decide what action to take or the victim's circumstances are complex it may be appropriate to advise her to seek legal representation. This does not mean that no form should be filled out. The legal representative can deal with any action that has been filed.

## **10.00 MAINTAIN OBJECTIVITY AND SENSITIVITY**

- 10.1.1 **Privacy** is of the utmost importance when dealing with victims of domestic violence. **Victims** of sexual and domestic violence may be **embarrassed** by the fact that they have been abused or violated and may **not want anyone to know**. More important, privacy and confidentiality are **essential to the safety** of the victim. Abuse may escalate if the perpetrator discovers that the victim has spoken to someone about the abuse or sought assistance.
- 10.1.2 Be especially careful **not to disclose to the perpetrator anything that the victim has told you**. The **victim's address** or where the victim is currently staying or working is very sensitive information and should not be disclosed as it can endanger the victim. **Do not discuss the abuse** that the victim complains of. The appropriate place for that to be discussed is in court when the application is being heard and the Magistrate will decide what should be done about the abuse.
- 10.2.1 **Objectivity** – It is important for you to **be objective** when dealing with victims and perpetrators. **Judging them is unprofessional**. Your **approval or disapproval** of them and their actions or decisions **should not be apparent** either verbally, through comments, or nonverbally, through your general demeanour.

10.2.2 A victim's inability to decide what to do may be as a result of the abuse that she has suffered. Domestic violence tends to demoralise victims. Do not judge that she has 'caused' her situation because of failure to take action. Give her enough information, but do not make decisions for her. Allow her to make her own decisions.

10.3.1 **Importance of Sensitivity** – **Victims** of sexual and domestic violence often suffer extreme physical and psychological trauma. They may **feel trapped, powerless and vulnerable** as a result of the abuse that they have suffered. Therefore, when dealing with victims of sexual and domestic abuse one must **be sensitive to the abuse** that they have endured and the likely **effects of that abuse**.

10.3.2 One should always be mindful of the impact that abuse may have on the self-esteem and confidence of victims of sexual and domestic violence. Be careful to act in a manner that does **not** further damage and **undermine their self-esteem and confidence**.

10.3.3 Accept and **believe** what the **victim** tells you. **Do not underestimate the abuse** that the perpetrator is capable of inflicting or that the victim has endured. **Do not be judgmental** as this may alienate the victim and discourage him/her from seeking further assistance. There may be things that a victim may not freely disclose which influence the victim's decision, indecision or inaction. For example –

- Fear of reprisals if they leave;
- Social isolation limited support systems – feeling that there is no one who can help;
- Financial dependence on the perpetrator;
- Unwillingness to cause upheaval in the lives of children;
- Wanting the violence to stop but not wanting the relationship to end;
- Low self-esteem – feeling of powerlessness and doubting their ability to manage on their own;
- Self-blame for the abuse and shame in revealing injuries;
- Feeling that it may be safer to stay in the relationship because violence may escalate if they attempt to leave.

10.3.4 Always **speak in a non-intimidating manner** and be as helpful and considerate as possible. Your attitude towards the victim can affect the victim's decision whether or not to avail him/her of the assistance available.

## ***11.00 SAFETY***

11.1.1 The **safety of the victim is crucial**. Ask the victim if she fears for her safety or for the safety of others. **Take all threats seriously**. Respect the victim's requests not to see the perpetrator. If the victim or others are in danger or feel unsafe secure safe alternative accommodation, if possible. **Help and Shelter provides shelter for battered women**. Contact the Police if appropriate.

11.1.2 Always **be mindful of your own safety**. The perpetrator may be enraged by your attempts to assist the victim and may pose a threat to your own safety. In situations where you feel

threatened, contact the police immediately and seek the assistance of your internal security, if available.

- 11.1.3 Each organisation should **develop safety procedures to protect its staff** when dealing with irate and violent perpetrators of sexual and domestic violence. Staff should be informed and occasionally reminded of safety procedures and follow them. A preventative approach is the safest way to avoid a confrontation and/or injury to staff or the victim.
- 11.1.4 If for any reason the victim and perpetrator have to be at the same location at the same time, take precautions to reduce intimidation of and/or abuse of the victim. **Do not leave the victim and perpetrator alone or together.** If possible, keep them in separate areas. When the victim and perpetrator are leaving, allow the victim to leave some time before the perpetrator to reduce the possibility of a confrontation immediately after they leave, and also the possibility of the perpetrator following and further abusing the victim.
- 11.1.5 Remember, in domestic violence the power between the parties is not equal and cannot be negotiated. **Avoid attempts to mediate or explain the violence.**
- 11.2.1 **Confidentiality** is critical when dealing with allegations of domestic violence. **Disclosure** of the fact that the victim is making an application in the Magistrates' court is **potentially harmful to the victims.** Many victims are embarrassed because they have been abused. If victims believe that the fact that they are making an application to the Magistrate and the contents of that application will be disclosed, they may be less inclined to continue the action before the Magistrate. Additionally, the **safety and wellbeing of the victim may be jeopardised if the perpetrator becomes aware** that the victim has made an application to the Magistrate.
- 11.2.2 Domestic violence applications should **not be discussed with anyone**, save to the extent that it is necessary to seek advice on dealing with the report or directly assisting the victim. In every case where the identity of the victim will be disclosed, the **prior consent of the victim** should be obtained.
- 11.2.3 Except in the circumstances indicated above, information discovered during professional interaction with victims of domestic violence should not be disclosed at any time, including after the prosecution of the perpetrator or elimination of the threat otherwise.
- 11.2.4 The **victim** should be **told that** any **information** that s/he provides is **confidential** and will be disclosed only with his/her permission or if necessary to seek further assistance or ensure his/her safety.

## **12.00 SUPPORT SERVICES**

An abundance of support is available for victims of domestic violence. If the victim cannot make up her mind or is having difficulty in coping with the abuse and is in need of assistance, she can be referred to a number of agencies that offer assistance.

- 12.01 **Shelter** – Help and Shelter offers short term shelter, for up to six months, for women and children who are victims of domestic violence. If the victim does not feel safe returning home

and has nowhere else to go, shelter can be arranged through Help and Shelter. In order to access this shelter victims must visit Help and Shelter's officer at Home Stretch Avenue, Durban Backlands, Georgetown. **Additional contact information for Help and Shelter is contained in the directory that accompanies this protocol.**

- 12.02 **Counselling** – Help and Shelter, Red Thread and the Probation and Welfare Services Department of the Ministry of Human Services and Social Security offer counselling. Every Child (Guyana) offers counselling services for children. Help and Shelter, Red Thread and Every Child (Guyana) provide counselling primarily in Georgetown. The Probation and Welfare Services Department of the Ministry of Human Services and Social Security offer counselling in all the administrative regions. **The contact information of the relevant agencies is contained in the directory that accompanies this protocol.**
- 12.03 **Legal Representation** – The Georgetown Legal Aid Clinic and the Guyana Legal Aid Clinic offer free or subsidised legal representation to persons who cannot afford to pay an Attorney-at-Law. The Georgetown Legal Aid Clinic receives applications for legal representation in Georgetown and outlying areas. Guyana Legal Aid Clinics are now located in Essequibo and Berbice and receive applications for those counties. **Their contact information is contained in the directory that accompanies this protocol.**
- 12.04 **Financial Assistance** – The Ministry of Human Services and Social Security through its Difficult Circumstances Unit can provide assistance to victims of domestic violence to assist them in obtaining training, finding accommodation and starting a new trade to enable them to become financially independent so that they no longer have to rely on their perpetrators. Applications must be made to the Ministry of Human Services and Social Security.

### **13.00 RESPECT THE WISHES OF VICTIMS**

- 13.1 The wishes of the victim are of the utmost importance when dealing with reports or suspected cases of sexual or domestic violence. **The circumstances of each victim are different and may require a different approach or response.**
- 13.2 **Listen to the victim.** Find out what are his/her **expectations** flowing from the making of a report. Provide all assistance that your agency can to enable the victim or complainant to achieve his/her desired objective. Do not attempt to coerce a victim or complainant to seek further assistance or take more action than s/he wishes. However, advise him/her on the options and assistance available and the likely consequences of any decision that the victim does take. It is important that the victim understands that the abuse is unlikely to cease with if the perpetrator is merely warned and that in some cases the only way that the victim can be safe is by getting out of and away from the abusive environment. **Provide all information** that may be necessary or helpful **to enable the victim to make a decision.**
- 13.3 Explain the **difference between civil and criminal actions.** Proceedings under the *Domestic Violence Act* are **not** of a **criminal** nature and **do not result in a conviction or jail sentence.** If a criminal offence has been committed criminal proceedings may be instituted in addition to proceedings under the *Domestic Violence Act*. **Custody, division of property and maintenance proceedings** may be instituted depending on the circumstances of the victim. In

addition to legal proceedings, **financial assistance** may be obtained from the **Ministry of Human Services** to enable the victim acquire alternative accommodation or to start a small business. **Counselling for victim and perpetrator** as well as emergency shelter for the victim may be obtained through **Help and Shelter**. Advise the victim accordingly but **allow the victim to make the final choice and respect his/her wishes**.

#### ***14.00 STAFF TRAINING***

- 14.1 All staff members (whether new employees or old employed) who are likely to interact with victims of sexual and domestic violence should receive **training to sensitise** them to the needs, vulnerabilities, difficulties and issues affecting victims of sexual and domestic violence in particular.
- 14.2 Annually, or more frequently if possible, all staff members should undergo continuous **training/sensitisation on dealing with victims** of sexual and domestic violence, **record keeping** and **disclosure of information**.

#### ***15.00 COMPLAINTS PROCEDURE***

- 16.1 The Magistrates' Court Registry should establish a complaints procedure to provide redress for dissatisfied patrons.
- 16.2 Patrons should be notified of the existence of the complaints procedure and the procedure should be explained in language appropriate to the level of understanding of the victim.