

## **Domestic Violence Courts – Overview and Standards**

The Domestic Violence Court (DVC) is a specialized court that focuses on those charged with domestic-related criminal offences and offers a Treatment Option. The DVC Treatment Option uses a therapeutic model to address the root causes and beliefs that lead to domestic violence through programming offered by professionals with the training to provide those new skills and strategies. The DVC Treatment Option allows those individuals who are in an intimate relationship and are willing to take responsibility for their actions and who elect to plead guilty, to complete a program for domestic violence. A participant's substance abuse issues may be addressed as well. Typically, upon successful completion of the program, the participant will receive a reduced sentence. Participation in the DVC Treatment Option is voluntary, and individuals have the right to plead not guilty, or to choose not to participate in the DVC Treatment Option. Individuals who do not participate in the DVC Treatment Option and plead not guilty to the offence will receive early trial dates.

**Intimate Relationship:** An intimate relationship is defined as a relationship between opposite sex or same sex partners. These relationships vary in duration and legal formality and include:

- Current and former dating relationships;
- Current and former common-law relationships;
- Current and former married relationships;
- Persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time.

The Domestic Violence Court Treatment Option is designed to enhance offender accountability and reduce violent domestic recidivism and abuse behaviour and increase victim safety through a collaborative, integrated, multi-sector response to domestic violence. The Court handles a specialized caseload and requires dedicated judges, Crown prosecutors, Legal Aid duty counsel and other defence lawyers, probation officers, as well as community partners such as victim services and agencies involved with providing domestic violence programming.

### **Target Group<sup>1</sup>**

Domestic Violence Court Treatment Option may be available to offenders charged with an intimate partner violence offence and who is considered eligible for the Option, is willing to accept responsibility for their actions by entering a guilty plea and who is found suitable for the available treatment program by the program providers. Programming to address their offending behavior is completed prior to sentence being imposed.

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<sup>1</sup> There are three domestic violence courts in Saskatchewan and each court runs somewhat differently. In Regina and Saskatoon, anyone who is charged with a domestic violence offence appears in DVC but not everyone goes through the Treatment Option. In Battlefords DVC, only those who are in the Treatment Option appear in their DVC.

## **Eligibility and the Referral Process**

The DVC Treatment Option may be available to adults who are charged with domestic violence offences (such as assault, assault causing bodily harm, assault with a weapon, uttering threats to cause bodily harm or death, mischief, and criminal harassment) and administration of justice offences that are domestically related (e.g., allegations of breach of protective conditions), who are not in custody and are prepared to enter guilty pleas to their offences.

Generally, the designated Crown prosecutor is the gatekeeper for referrals to the program. In order to be eligible for consideration for the Treatment Option, the designated Crown determines eligibility. The nature of the offense, the criminal record of the accused, and other circumstances must be such that the Crown is prepared to agree to a community-based sentence upon a guilty plea, signing off on an agreed statement of facts and successful completion of the Treatment Option.

Participants are encouraged to obtain legal advice from Legal Aid Duty Counsel or a private lawyer in order to determine whether the DVC Treatment Option is right for them.

### **Domestic Violence Treatment Option is not for:**

Offenders who are facing sexual offences, more serious assaults, offences with mandatory minimum penalties, or offences for which the Crown will be seeking a jail sentence.

## **Deferred Sentencing Model**

Individuals choosing the Treatment Option are required to accept responsibility for the offence by pleading guilty. An Agreed Statement of Facts, signed by the offender, defence counsel, and the designated Crown is retained by the Crown when the guilty plea is entered. The Agreed Statement of Facts is read to the court by the Crown at the time of sentencing. The individual's release document will also be amended by the Court to require them to attend and participate in domestic violence treatment programming. Periodic progress reviews will occur before a judge throughout the treatment and participants must attend Court for these reviews as required.

Sentencing is deferred to allow the offender to participate in domestic violence treatment programming designed to allow them an opportunity to learn new strategies promoting safety, equality, and respect while replacing strategies of fear and power over others and disrespect.

Sentencing occurs following the successful completion of domestic violence programming or upon termination from programming. Successful completion of the Treatment Option will be taken into consideration by the Court and, in most cases, will result in a lesser sentence than if treatment was not taken and completed.

## **Protective Release Conditions**

In most cases, an offender who is released after being charged with a domestic violence offence will have a condition prohibiting contact with the victim. Non-contact assessments may be ordered by the Court when the individual is requesting changes to the protective conditions on his/her release document. Victim Services agencies will complete a risk assessment with input from the victim, including discussion about the victim's wishes regarding the non-contact conditions. While the wishes of the victim will be taken into account, the decision to amend these conditions is made by the Court. In many cases, the conditions are removed gradually as an offender moves through the Domestic Violence Treatment Option.

## **Pre Court<sup>2</sup>**

The Pre-Court meeting is attended by the designated Crown, Legal Aid Counsel, Probation Officer, Victim Services, and treatment providers. Other community partners such as Addictions Services or Social Services may also attend. At the Pre-Court meeting the team will review the cases of those being assessed for the Treatment Option and those who are participating in it. Discussion may include progress being made in the programming, specialized needs of those who are entering programming, and potential concerns arising in programming and suggestions to address those concerns.

## **Court**

Domestic Violence Court is scheduled on a specific day and time. The regularly scheduled days and times are in place to facilitate regular attendance by members of the Domestic Violence Court Pre-Court Team.

The court is presided over by a dedicated Judge.

Periodic reviews of the individuals who are in the Treatment Option occur before the presiding Judge. A report is provided to the presiding Judge setting out the individual's progress in the program. How often an individual appears before the court will vary. The first progress review should take place four weeks after entering the guilty plea with subsequent reviews scheduled for every six weeks, or every eight weeks if the participant is doing well in programming.

## **Best Practices for Domestic Violence Courts**

**Victim safety** – must be considered the foundation of a domestic violence court. Victim Services will keep the victim informed about all aspects of their cases as well as help them to access resources. If a victim wants to have a voice or has concerns relating to their case, they should know who to contact and find out more.

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<sup>2</sup> There are three domestic violence courts in Saskatchewan and each court runs somewhat differently. Regina and Battlefords DVC have pre-court, Saskatoon does not.

**Offender accountability** – to hold offenders accountable there must be a mechanism to ensure they are in compliance with their court conditions and if they fail to abide by their conditions they must face swift consequences.

**Programming** – evidence-based and culturally informed treatment/interventions as approved by the Ministry of Justice and the Chief Judge of the Provincial Court.

**Information sharing and informed decision making** – to be effective, the Court needs judges and community partners as well as other partners to be up to date and have accurate information. This requires receiving appropriate information from community-based agencies and government agencies on a case by case basis while still guaranteeing the appropriate confidentiality of both victims and offenders. An Information Sharing Agreement or a Protocol on Information Sharing should be developed prior to the domestic violence court starting.

**Coordination of procedures and services** – a formal system should be institutionalized with written protocols and procedures that supports the court and the partners working together in coordinated response. A governance structure should be developed for the Court defining how decisions are to be made and by whom.

**Training and education** – as much as possible, key players who appear in Court should be trained and be specialized in the area of domestic violence. Those would include judges, prosecutors, defense, and probation officers. A Court Coordinator to oversee the domestic violence court is important to arrange regular meetings and trainings, troubleshoot day-to-day concerns, and initiate larger policy discussions with court partners.

**Accountability of Courts and programs** – there are two aspects of accountability in the domestic violence court: program accountability and system accountability. Programs are accountable to one another (e.g., in communicating progress, providing required reports promptly and accurately, following protocols generally, etc.). System accountability involves reviewing how the protocols are working and having data analyses to measure the domestic violence courts' outcomes.

## **Planning Meetings – Required Partners**

1. Provincial Court Judge
2. Provincial Prosecutions
3. Legal Aid
4. Community Corrections (Probation Services)
5. Saskatchewan Health Authority – Mental Health and Addictions
6. Municipal police and/or R.C.M.P.

7. Social Services (Child Protection)
8. Victim Services
9. Potential Domestic Violence Treatment Providers

At the planning stage, it is crucial to have at the table representatives from these Ministries/Agencies who are able to commit to providing programming and human resources.

Domestic Violence Court success is linked to successful adherence to key elements for Domestic Violence Courts. To be successful, it is essential that Domestic Violence Courts in Saskatchewan use a collaborative team approach to provide a coordinated response to participants in the program. The treatment partner(s) play an important role in this team approach. Within the overarching criminal justice system, this collaborative team approach should provide an interdisciplinary program to domestic violence offenders.

### **Key elements of Domestic Violence Courts include:**

- **Collaborative model** – to the extent that their professional and ethical obligations permit, the Domestic Violence Court partners work collaboratively to ensure victim safety and provide appropriate programming to offenders willing to take programming to find alternatives to violence in their relationships.
- **Coordinated community response** – requires a network of criminal justice, community, social, and health representatives to work together to develop a coordinated community response to domestic violence.
- **Strong stakeholder partnerships** – supported through a governance structure that is able to provide strategic input and as well as operational oversight.
- **Stable and adequate resources** – specialized courts require stable resources both financially and human to ensure sustainability and accountability.
- **Trained and dedicated personnel** – professionally trained and dedicated personnel within each partner agency are a critical element for the success of a domestic violence court. Recommendations on best practice include continuous training and cross training opportunities, consistent staff, and succession planning to prevent breakdown when staff turnover occurs.
- **Special services for offenders and victims** – includes services for victim support and victim input and offender education and treatment as components of the therapeutic option connected to a domestic violence court.
- **Specialized docket and case management** – there is a routine screening mechanism to identify domestic violence cases which are then placed in regularly scheduled docket and court calendars.

## **Data Collection and Evaluation**

An important aspect of Domestic Violence Court is the continuous collection and evaluation of data to measure outcomes and successes which are used to determine the effectiveness of its operation as well as identify ways to improve the outcomes of the Court. Outcomes need to be clearly defined within the parameters and objectives of the court and evaluated in that context. As well, for the success of the court, there should be an ongoing review of court processes and ongoing performance management of staff.

## **Getting Started – Required Checklist**

### **Establish Multi-Disciplinary Domestic Violence Court Team, which shall include, at a minimum:**

- Judiciary
- Prosecutions
- Legal Aid
- Community Corrections
- Saskatchewan Health Authority (Mental Health and Addictions)
- Victim Services
- Community agencies involved with domestic violence

### **Domestic Violence Court Team to develop written proposal, which shall include, at a minimum:**

- Mission statement, vision, and program goals
- Defined (written) eligibility and screening process
- Domestic violence programming
- Written program plan
  - a. treatment requirements
  - b. court schedule
  - c. mandatory and measureable treatment milestones
  - d. mandatory and measurable requirements for successful completion of program
- Written policies and protocols for all partners
- Training plan
- Staffing requirements (Court Manager/Coordinator)
- Capacity for Court based on available resources and needs