

Family Healing Program and Mi'kmaw Legal Support Restorative Justice Domestic Violence Protocol Framework-

Restorative justice is described as:

...the popular name given to a wide range of emerging justice approaches that aim for more healing and satisfying responses to crime. While each approach is different, these processes try to give active participation to those directly involved or affected. Everyone hears each other's experiences, feelings and questions. Together, they sort out matters of accountability, safety, and the need for a fair and meaningful course of action. (The Church Council on Justice and Corrections, "Restorative Justice: What Are We Talking About?!", reflection sheet, Ottawa, Ontario, 2000, p. 1.)

This protocol intends to bring people and resources together to repair the harm that has been done with the commission of an offence. This protocol is victim-sensitive in that it makes a great effort to engage victims while accommodating victims' needs. Each case will be considered on an individual basis. Steps will be taken to ensure that women are not re-victimized in the process. Once a referral has been accepted, the Family Healing Program will make contact with all parties involved, which typically includes the offender, the victim, and their respective families. The initial approach to women victims should be made by someone who has extensive experience in the nature and dynamics of abuse and the psychological socialization that accompanies it and that time should be taken, perhaps over several sessions, to provide the victim with an opportunity to look at the impact of the abuse fully.

Flexibility and precaution is in order. Women should be able to make informed, supported choices when deciding whether or not to enter into a restorative process. An informed choice would include a provision of information on:

- confidentiality
- advantages and disadvantages of all options
- details regarding the importance of and right to legal advice at specific stages
- the availability of appropriate advocacy and support
- access to facilitator's credentials and training.

The issue of power dynamics also requires attention. Facilitators needed to be very well informed and educated about the dynamics of family violence and issues around domination and power. The process must allow the victims to feel safe enough to speak. Once a power imbalance is recognized, the circle facilitator's skills combined with balancing tools can help

balance the unequal power between the participants. These techniques can include the constant presence of legal counsel and support persons during the process, attention to the seating arrangement, the provision of counselling services, the use of caucuses (when mediators/facilitators meet separately with the parties), as well as ensuring that parties maintain the right to terminate the process at any time. For the protocol to meet its healing goals, MLSN and the Family Healing Program of MFCSNS will work in concert to conduct extensive case development, preparation, assessment and screening to deal with power dynamics. This will ensure that there is a safety plan for the victim and also that the offender is taking the requisite degree of responsibility and is willing to change his behaviour.

We recognize that the criteria for all referrals submitted to the Family Healing Program must adhere to the following standards and guiding principles:

1. First of all, restorative justice invites full participation and agreement. This means that room is made within the process for the voices of all who are affected to be heard. This includes the victim, the offender, their families and friends, as well as people from the community who have been affected.
2. Restorative justice attempts to heal what has been broken. It focuses on the needs of the victim (e.g. what does she need to help heal the trauma; restore a sense of safety, etc.), offender (e.g. what is needed to ensure the harm never reoccurs; what is needed to ensure his adherence to any agreement, etc.), and community members (e.g. what will help them feel safer, what steps can be taken to improve their community so crime is less likely to happen in the future, etc.).
3. Restorative justice initiatives seek full and direct accountability. Accused persons face their victims and others who have been affected and are allowed to explain their behaviour, take full responsibility and be part of a process which decides on a way forward which meets the needs of all concerned.
4. Restorative justice also seeks to reunite that which has been divided. Crime divides the community into an "us-them" way of thinking which is unhealthy. Restorative initiatives find ways of bridging this gap so that "the "us" and "them" are connected within a healthy community. It is important to note that this reunification looks at breaking down the isolation within the community that occurs following a crime—isolation felt by both the accused and the victim, as well as other community members who have been affected. Restorative justice initiatives do not necessarily seek to reunite the victim and offender in what has been an unhealthy, abusive relationship. (Susan Sharpe, Restorative Justice: A Vision for Healing and Change) .
5. Any initiative in this context must strive to strengthen community in order to prevent further harm through relationship building and dealing with the underlying social problems that caused crime in the first place.

Mi'kmaw Family and Children's Services of Nova Scotia : Family Healing Program :

Roles and Responsibilities

Mi'kmaw Family and Children's Services of NS provides Child Welfare and Family Services to all First Nation families in Nova Scotia. Operating under the umbrella of this agency, the Family and Community Healing Program oversees the operation of the Mi'kmaw Family Healing Centres or Transition Houses (one located in Millbrook First Nation and one located in Waycobah First Nation). Each Centre has four units, which can accommodate up to 16 beds for abused women and their children. We are staffed 24 hours a day, seven days a week. Referrals are accepted at all times by fax, telephone, mail, e-mail or in person.

The Mi'kmaw Family Healing Program services include: short and long-term shelter for abused women and their children, individual and group counselling for women, life skills training and access to community resources, advocacy, outreach programs, prevention education, information and referrals. Crisis intervention is available 24 hours a day, seven days a week, on an in-person, telephone and /or e-mail basis. The Director, Supervisors, and counsellors are qualified agents to assist with emergency protection order applications. Follow-up services through the outreach program are offered to all clients. The Family Healing Program works in concert with our Agency's child welfare and family support programs to provide holistic and comprehensive support to families, in terms of parenting, life skills, safety planning, intervention and follow up services. We utilize traditional methods of support to all family members through family group conferencing, consultations with elders and community leaders and community stakeholders. A referral service is available for men requesting support. The goal of the Family Healing Program is to encourage families to break the "Circle of Violence" and support them in maintaining a peaceful and healthy lifestyle.

This protocol only addresses referrals from Mi'kmaw Legal Support Network regarding files related to intimate partner abuse. This protocol is designed to promote a positive, cooperative working relationship between the Family Healing Program and the Mi'kmaw Legal Support Network. It will serve to clarify roles and expectations, to facilitate communication and better meet the needs of First Nation families experiencing violence.

Mi'kmaw Legal Support Network

Roles and Responsibilities

Upon Receiving Referral

Upon receipt of a referral from MLSN to review a file to orchestrate a sentencing circle, healing circle or section circle, shelter staff will notify the program supervisor, who will then inform the Director of Family and Community Healing. All MLSN referrals will be placed in a green

binder near the front desk and labelled MLSN referrals. Referrals will be accepted at all times (24 hours a day). Referrals will be accepted by fax, phone, mail and e-mail. Both the victim and offender will need to sign a “release of information”, which will need to accompany the referral.

Relevant Family Healing Centre and MLSN staff will meet to review the referral file and assess the viability of a circle according to the following criteria:

Determine if the woman is a current or past client of the Family Healing Program

Other appropriate professional input may be required, such as police, mental health, etc. If this is recommended, MLSN will contact the victim and offender for permission to release information and provide this documentation to the Family Healing Program.

ODARA scores from the Police Agency (if applicable)

Completion of the Jacqueline Campbell Danger Assessment (Family Healing Centre)

Determine if the victim/offender is designated as High Risk for Lethality

If the situation is designated High Risk for Lethality, the HRL PROTOCOL will be activated in which the Domestic Violence Coordinator of the appropriate Police Agency will be notified

An outreach file will be opened for the woman.

Consultation with the Aboriginal Domestic Police officer

Family Healing Centre staff and MLSN caseworker will contact the victim to review the request for a circle with the offender. It is essential that every effort and provision is taken to ensure the safety for the victim and that she is comfortable with the process and is participating in her own volition.

Safety planning will be completed with the victim by the Women’s Outreach Worker of the Family Healing Program.

