



REPRESENTATIVE FOR
CHILDREN AND YOUTH

Honouring Christian Lee

No Private Matter:

Protecting Children
Living With
Domestic Violence

September 2009

September 24, 2009

The Honourable Bill Barisoff
Speaker of the Legislative Assembly
Suite 207, Parliament Buildings
Victoria, BC V8V 1X4

Dear Mr. Speaker,

I have the honour of submitting *Honouring Christian Lee – No Private Matter: Protecting Children Living With Domestic Violence*, to the Legislative Assembly of British Columbia.

This report is prepared in accordance with Section 16 of the *Representative for Children and Youth Act*, which makes the Representative responsible for reporting on reviews and investigations of deaths and critical injuries of children receiving reviewable services.

Sincerely,

A handwritten signature in black ink, reading "mecturpellafond". The signature is written in a cursive, lowercase style.

Mary Ellen Turpel-Lafond
Representative for Children and Youth

pc: Mr. E. George MacMinn, QC
Clerk of the Legislative Assembly

Chair, Select Standing Committee on Children and Youth



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Executive Summary

On Sept. 4, 2007, six-year-old Christian Lee was supposed to have been walking into his Grade 1 classroom for the first time. Instead, in the early hours that morning, Christian and four members of his family died in a murder/suicide. Peter Lee murdered his son Christian, his wife Sunny Park, his parents-in-law from Korea and then killed himself.

Prior to committing the murders, Peter Lee was banned from the family home and had no job. He was facing charges for confining and threatening a young man, and for deliberately causing harm to his wife by crashing the family vehicle.

Five weeks prior, Peter Lee, 38, and Sunny Park, 32, had been involved in a car crash in the Greater Victoria region, where they lived and worked. Police learned from Sunny that she believed the crash was intentional. As a result of the crash, she had a fractured arm and serious injuries to her face. Sunny was told that recovery would take up to a year. She told police she had been a victim of her husband's violent behaviour for many years and that she was extremely concerned for her safety. She thought her husband was going to kill her. She began initiating divorce proceedings with a lawyer.

As a result of the car crash, Peter was charged with dangerous driving causing bodily harm and unlawfully causing bodily harm to Sunny. He was under a court order, which prohibited him from contacting Sunny Park, from visiting the family home, from visiting the family's downtown restaurant, and from possessing explosive substances or weapons, such as knives. He was not prohibited from contacting Christian.

Police felt that he posed a serious threat to his wife and were concerned enough about Peter's release on bail that they contacted the Ministry of Children and Family Development (MCFD). This prompted the ministry's first involvement with Christian and his family. The police had been called to the home for a domestic dispute in 2003, and although police records indicate the ministry was notified, no record was found of this at the ministry.

On Sept. 5, 2007, the ministry notified the Office of the Representative for Children and Youth about Christian's death.

This investigation found that the systems of support for children and families exposed to domestic violence were not adequate to protect Christian and his family.

Contributing factors to an uncoordinated response by the systems involved included:

- the narrow lens applied by the child welfare system
- inadequate communication and collaboration between MCFD and police
- absence of a specialized prosecutor or domestic violence court, and
- the lack of consistent policies and tools for responding to domestic violence situations between all of the systems.

MCFD took the approach that because Christian was with his mother and his father was not living at home, the boy was safe from physical harm. Ministry staff concluded his mother was willing and able to protect him. While this approach reflects the way our child protection legislation is structured, it does not allow for a full recognition of the dynamics at play in domestic violence cases. Christian was not safe because his mother was not safe. She was an immigrant depending on her abusive husband to explain the social service and legal systems in British Columbia, and she had limited confidence in her ability to express herself in English.

The ministry and police each independently discussed safety planning with Sunny Park, but a comprehensive safety plan was not developed nor was there a rigorous assessment of the risk posed by Peter Lee.

There was generally no communication or coordination between child welfare and criminal justice systems. Police and the MCFD social worker assigned to the case never spoke. The only direct contact was when police called the ministry, shortly after bail was granted, to report concerns.

When domestic violence comes to the attention of authorities, several different systems are involved: police, Crown Counsel, the courts and often MCFD. In instances where there are separation, divorce or child custody issues, the family justice system is also involved. An effective response requires that all systems work together in a coordinated manner, supported by effective and systematic assessment and planning tools, and that they consider the cultural and language needs of the individuals they serve.

The criminal justice system plays the pivotal role in cases like this one. The Representative does not propose to second-guess the decisions that were made regarding bail and consent to bail. The prosecutors, whose duty it is to be impartial and apolitical, were not working as part of a coordinated system, with all the information available to them. There was no domestic violence court such as those in some other jurisdictions, where bail decisions are made with the benefit of full assessment of risk of harm by specialized personnel.

As matters unfolded, Peter Lee, after having been released on bail, engaged in behaviour that can only be described as stalking Sunny Park, including calling her lawyer's office, and making it known that he knew Sunny was there less than a day after being warned by a police officer regarding the same type of conduct at a dentist's office. While the police, bail supervisor and Crown were aware and very concerned about Peter Lee's behaviour, Peter killed his family and himself before the various agencies involved could act.

The Representative's investigation into Christian's death describes how three systems worked independently of each other, and how this affected Christian's safety because of lost opportunities for effective intervention.

In this investigation, the Representative considered issues including whether the system of supports and services to Christian and his family in some way contributed to Christian's death, whether his death was predictable, and whether Christian could have been better protected. This focus does not take away the key fact that the cause of Christian's death was his father.

The recommendations in this report are straightforward. The Representative strongly suggests that they be put into action now. Domestic violence is everyone's responsibility. The child welfare, criminal justice and family justice systems must all work together to provide effective support for victims and especially for children in these dangerous, and sometimes lethal situations. They are not working together now and the need for change is urgent.

The child welfare, criminal justice and family justice systems need to develop consistent policies and use consistent tools when responding to situations of domestic violence. Communities need coordinated response teams that specialize in domestic violence. Providing early intervention and support to victims is critical.



Introduction

The Representative's investigation into the circumstances of Christian's death focuses on the services he and his family received and whether they were appropriate, adequate and responsive to the child's situation. The investigation touches upon three intersecting public systems: the child welfare system, the criminal justice system (police, prosecutions, courts and victim services) and the family or civil justice system.

The Representative recognizes the daily challenges faced by child protection workers who serve vulnerable children. An examination of the systems within which they work sometimes leads to criticism of how a specific case was handled. The standard applied is whether actions were reasonable given the information and circumstances at the time, without the benefit of hindsight informed by full knowledge after the fact. The intent of any finding is to help us all to understand how to improve our response to such circumstances, and must not be taken as criticism of individuals.

The Representative also acknowledges the tough jobs faced by police, prosecutors, bail supervisors and family lawyers, all of whom may be involved with victims of domestic violence. They work in a context that is only as strong as the resources available to them and the degree to which they are part of an integrated system.

In this report, Christian Lee and his parents are identified by name. In the process of each critical injury or child death investigation report, the Representative makes a considered decision about whether or not to identify a child or any other individual by name or location.

The primary consideration is the privacy of the immediate family. Christian and his immediate family members are all deceased. Their names and the violent nature of their deaths have been reported extensively in the public media. The details of this case are therefore highly recognizable, and the Representative has determined that identification of the child and his family is appropriate in these circumstances.

Any and all crimes against children are reprehensible, but they are particularly horrendous when carried out by a person entrusted to care for the child. The taking of a human life is an unthinkable crime. It is particularly distressing to society when a parent kills a child, because we expect parents to love, care for and protect children at all costs.

In this case, we also feel sadness for the others in Christian's family who were murdered in this tragedy but by mandate and out of respect for the voice of a child now silenced, this Representative's investigation focuses on Christian.

Little is known about Christian because his life was so short, but those who spent time with him and are left to carry on his memory – his teachers and classmates – were among those most moved and saddened by the loss of his precious life and the shocking manner of his death, as evidenced by their memorials to him, and their memories shared with RCY investigators.

The emotional aspect of these investigations cannot, and indeed must not, be ignored. Death and loss are inextricable from emotion, which along with reason, truth and incisive analysis must guide us to a full understanding of what happened, why, and how we can change things to help prevent similar incidents in the future.

Many factors are involved in the dynamics of domestic violence and the role it may play in the critical injury or death of a child. While it may be difficult to identify specific warning signals, those in the child welfare system must become more aware of the importance of early assessment of the danger signs within domestic violence, of a parent on the brink.

But the onus cannot be left on child protection workers. Awareness must be raised amongst not only police and criminal justice workers but the general population – friends, neighbours and family all play a role.

While some issues such as police response or coordination are outside the mandate of this investigation by the Representative, they raise bigger-picture issues about the effects of domestic violence on children. Our task now is to ensure that this in-depth look into the life and death of Christian informs improvements to the way we help children living in homes experiencing domestic violence. Every day counts for children exposed to escalating violence in their homes.



Methodology and Context

Legislative Context

Deaths and critical injuries of children in care of the ministry and of children who have received reviewable public services in the past year have been reported to the Representative since June 1, 2007, when Part 4 of the *Representative for Children and Youth Act (RCY Act)* came into effect.

Christian's death was reported to the Representative for Children and Youth by the ministry on Sept. 5, 2007. Under the provisions of the *RCY Act*, the Representative has broad investigative powers, and can provide full legal protection to witnesses who provide evidence to an investigation.

The Representative's death investigation function entails significant responsibilities, as described by the Honourable Ted Hughes, QC, in the BC Children and Youth Review (the Hughes Review), and reflected in the *RCY Act*. Primary among these are reviewing the evidence fairly, thoroughly balancing public accountability and privacy, and making constructive recommendations that will support improvements to the system. The Representative also has a responsibility to report to the Legislative Assembly about her findings and the outcomes of her recommendations.

The Representative is necessarily reviewing events after the fact. To properly undertake that function, two things must be clearly understood.

The first is the Representative's recognition that it is not fair to examine the conduct and actions of individuals based solely on a position of looking backward. In looking at the actions and practices of professionals at a particular time, the focus is on those actions as they were taken in the circumstances at the time.

The second is the Representative's strong view that it is entirely fair and necessary – indeed it is the whole purpose of an investigation after the fact – to determine the facts, and whether things unfolded as intended by law, policy and practice standards. When there is a finding that they did not, or that there are gaps in the framework, it is not for the purpose of blaming individuals, but for the purpose of learning lessons.

Prior to this investigation, there was an internal MCFD review and a BC Coroners Service inquest into the deaths of Christian and his family members. The ministry completed the internal file review on Feb. 21, 2008. That review is discussed later in this report.

The coroner's inquest was held from April 28 to May 7, 2008. On May 8, 2008, the inquest was adjourned to allow the Attorney General to make application to the Supreme Court of British Columbia for judicial review of subpoenas issued for Crown Counsel to appear at the inquest. In June 2008, the Court ruled that Crown Counsel did not have to appear at the inquest. In July 2008, the Coroners Service filed an appeal with the British Columbia Court of Appeal. In July 2009, the Court of Appeal upheld the previous decision of the Supreme Court. At the time of writing of this investigation report, the Coroners Service is reviewing that decision and deciding whether to apply to the Supreme Court of Canada for leave to appeal to that court.

The delay in completion of the coroner's inquest does not prevent the Representative from completing this investigation and reporting to the public. The *RCY Act* expressly allows the Representative to investigate one year after a death, and even earlier if, as here, the coroner serves notice that there will be an inquest into a death. The Representative's right to conduct an investigation concurrent with an inquest avoids undue delay and reflects the special focus and concerns that gave rise to the creation of this office. The Hughes Review states:

The Coroner investigates all unexpected, unanticipated deaths, including those of children in the child welfare system. The Coroner's role is to answer the questions: who died, and how, when, where and by what means? The focus is on the circumstances of the death itself. In contrast, the Representative's investigation is an examination of the child's life in relation to the child welfare system. The Representative's objective is to determine whether the system may have contributed in any way to the child's death and, if it did, to recommend improvements to service, practice or policy that could prevent future deaths.

Methodology

This investigation into Christian's death focuses primarily on the time period between July 31, 2007, when the family came to the attention of police due to an incident of violence against his mother, and the date of Christian's death, Sept. 4, 2007.

Interviews with MCFD headquarters and regional staff, as well as police and others, were conducted in accordance with Section 14 of the *RCY Act*. Witnesses were ordered to appear for interview. They were sworn in, and their evidence was recorded. Seventeen such interviews were conducted. In addition, 10 individuals were consulted. Efforts were also made to connect with Christian's extended family. In consideration of privacy interests of family members, details regarding contact with them are not part of this report.

Evidence and research were reviewed to deepen the understanding of the system of services and supports to children and families facing domestic violence, and to augment analysis of how the system is meant to function, how it functioned in this instance, and how it might be improved to sustain better outcomes for vulnerable children.

The Representative's Multidisciplinary Team, established under the *RCY Act* and its Regulations to provide advice and guidance to the Representative on reviews and investigations, met and provided valuable input into this report.

The Representative also engaged the support of two external experts to review this report and advise on its content. Dr. Peter Jaffe, a recognized expert on children and domestic violence, is a Professor at the University of Western Ontario. On July 1, 2009, Dr. Jaffe was appointed as an Officer of the Order of Canada in recognition of his influential work and lifetime achievements in improving the response of Canada's legal, educational and social service systems to family violence and the abuse of women and children. He is the university's Academic Director of the Centre for Research on Violence Against Women and Children.

The Honourable Heino Lilles is a judge who has played a key role in developing and implementing domestic violence treatment options in the Yukon court system. He is a leader in promoting innovative and effective responses to domestic violence among his peers across the country, and has extensive law reform and scholarly expertise.

In the interest of administrative fairness, agencies and individuals that provided evidence to this investigation were given an opportunity to review and provide written comment on the facts as laid out in this report.

Domestic Violence

When the Representative uses the term "domestic violence" in this report, it means the abuse and/or assault of adults or adolescents by their intimate partners.

Domestic violence is often viewed as a subset of family violence, a broader term used to describe a range of violent behaviours among family members. A key characteristic of domestic violence is that a perpetrator uses it to intimidate victims as a way of maintaining power and control over them. While both males and females can be victims of domestic violence, the vast majority of victims are female.

As this case so clearly demonstrates, victims of domestic violence can appear as highly functional and capable people to those unaware of all the facts of a particular relationship. This is one reason it is so critically important for public agencies with information about domestic violence to share that information with other involved agencies.

Domestic violence is defined as the pervasive and methodical use of threats, intimidation, manipulation, and physical violence by someone who seeks power and control over their intimate partner. Abusers use a specific tactic or a combination of tactics to instil fear in and dominance over their partners. The strategies used by abusers are intended to establish a pattern of desired behaviours from their victims. Certain behaviours are often cited by the perpetrator as the reason or cause of the abusive behaviour; abusive verbal and physical actions are often intended to alter or control that behaviour (Bragg, 2003).

Exposure to domestic violence is part of life for many children in Canada, and it is a common factor in many cases of child maltreatment. The 2003 Canadian Incidence Study of Reported Child Abuse and Neglect (Trocmé, Fallon, MacLaurin, Roy, Lajoie, & Black, 2005) estimated that 49,994 child protection investigations in Canada in 2003 (excluding Quebec) involved exposure to domestic violence as either the primary or secondary category of maltreatment. In 70 per cent of these cases, child maltreatment was substantiated.

The same study found that over 34 per cent of substantiated child maltreatment investigations involved some form of exposure to domestic violence. Of those, 25 per cent involved exposure to domestic violence and nine per cent involved exposure to domestic violence concurrent with another form of substantiated maltreatment.

In Canada in 2006 (most recent data available), 60 children and youth died as a result of homicide. Of these homicides, 36 were committed by family members (Canadian Centre for Justice, 2008).

In B.C., 330 children and youth died in 2007. Four of these deaths were homicides. Between 1998 and 2008, there were 77 child homicides in B.C. (B.C. Vital Statistics).

Services in Greater Victoria

In 2007 in Greater Victoria, where Christian's family lived and worked, a range of services and programs were available to respond to domestic violence issues, including crisis lines, shelters, counselling and support programs for children and victims. Many of the services and programs were offered by community-based non-governmental organizations, and continue to exist today.

There were also services available to perpetrators, including a specialized program for men who have been violent or abusive in relationships with women and for women in relationships with those men.

The Spousal Assault Victim Support Program was a community-based victim services program available in 2007, and it is still in operation today. This program provides support to victims of violence in relationships. The victim support workers assist victims in navigating the criminal justice system and works with them to connect to other community support. They can also assist with court orientation and accompaniment, victim impact statements and developing safety plans. Sunny Park had an appointment with this program but was killed a few days before her first meeting with the worker.

In 2007 the Violence Against Women In Relationships Coordination Committee was also active, and continues to exist today. This committee brings together representatives from the criminal justice system, child welfare system and agencies serving victims and offenders in the Greater Victoria area. The goal of the committee is to increase the effectiveness of the community response to violence against women in relationships.

The Family

Christian's father, Peter Lee, came to Canada from Korea with his family when he was a child. He was described by one witness as being "more Western than Korean" in his outlook. Witnesses described him as a very charming, charismatic and persuasive man. He had been married once previously.

Christian's mother, Yong Sun (Sunny) Park came to Canada from Korea as a young adult in the late 1990s. About a year after she arrived in Canada, she became involved with Peter Lee and they married in 2004. Sunny Park was described by one witness as an excellent business person who was extremely intelligent and organized. Other witnesses attributed similar characteristics to Sunny.

Christian, born Aug. 6, 2001, was their only child. The fact of Christian's birth was not initially disclosed to his maternal grandparents, who lived in Korea. However, when they were told about Christian when he was three or four years old, they made him part of their life. They would come to Victoria to visit him and often helped care for him.

Sunny and Peter opened a restaurant in Victoria in 2004, and it quickly became successful. Sunny's sister also worked there. The restaurant was owned by Sunny, Peter and some investors.

Christian completed kindergarten in June 2007 and was about to enter Grade 1 in September 2007. At the time of his death, Christian was living with his mother and his maternal grandparents, who were assisting with looking after Christian. A maternal aunt had recently moved out of the home. Christian's mother was in the process of getting a divorce from his father.

During the summer of 2007, Peter was no longer working at the restaurant. He was employed on a part-time basis as a reserve port inspection diver at HMCS Malahat in Victoria. He was not called out for duty in the month of August 2007.

At the time of the murders, Peter was subject to two bail orders – the first arising from charges of uttering threats and unlawful confinement stemming from an incident in July 2006 involving a young man, and the second arising from a car crash in July 2007. These incidents are described later in the report.



Chronology

MCFD's After Hours office receives and responds to child protection reports outside of regular business hours. On Aug. 3, 2007, the After Hours office was called by a senior Victoria Police Department officer. The officer alerted After Hours staff that Peter had been released on bail the previous day. Peter had been arrested on July 31, 2007, and held in custody. He was charged with dangerous driving causing bodily harm, and unlawfully causing bodily harm to Sunny. The investigating officers believed he posed a serious threat to his wife and her family. The police officer wanted this information entered into MCFD's child protection system in case the ministry had further involvement with the family.

The officer reported that on July 31, 2007, Christian's parents were involved in a serious single vehicle crash in Victoria. Christian had been dropped off at an enhanced learning program. Peter was driving while the couple reportedly argued about Sunny's intent to get a divorce. Sunny was in the back seat. Peter then drove the vehicle into a utility pole. The vehicle sheared off the pole and stopped when it hit a tree. Police believed that this was an intentional act, with the intent to harm Sunny.

Sunny's injuries were significant, including lacerations to her face, injuries to her body and a broken arm which required surgical repair.

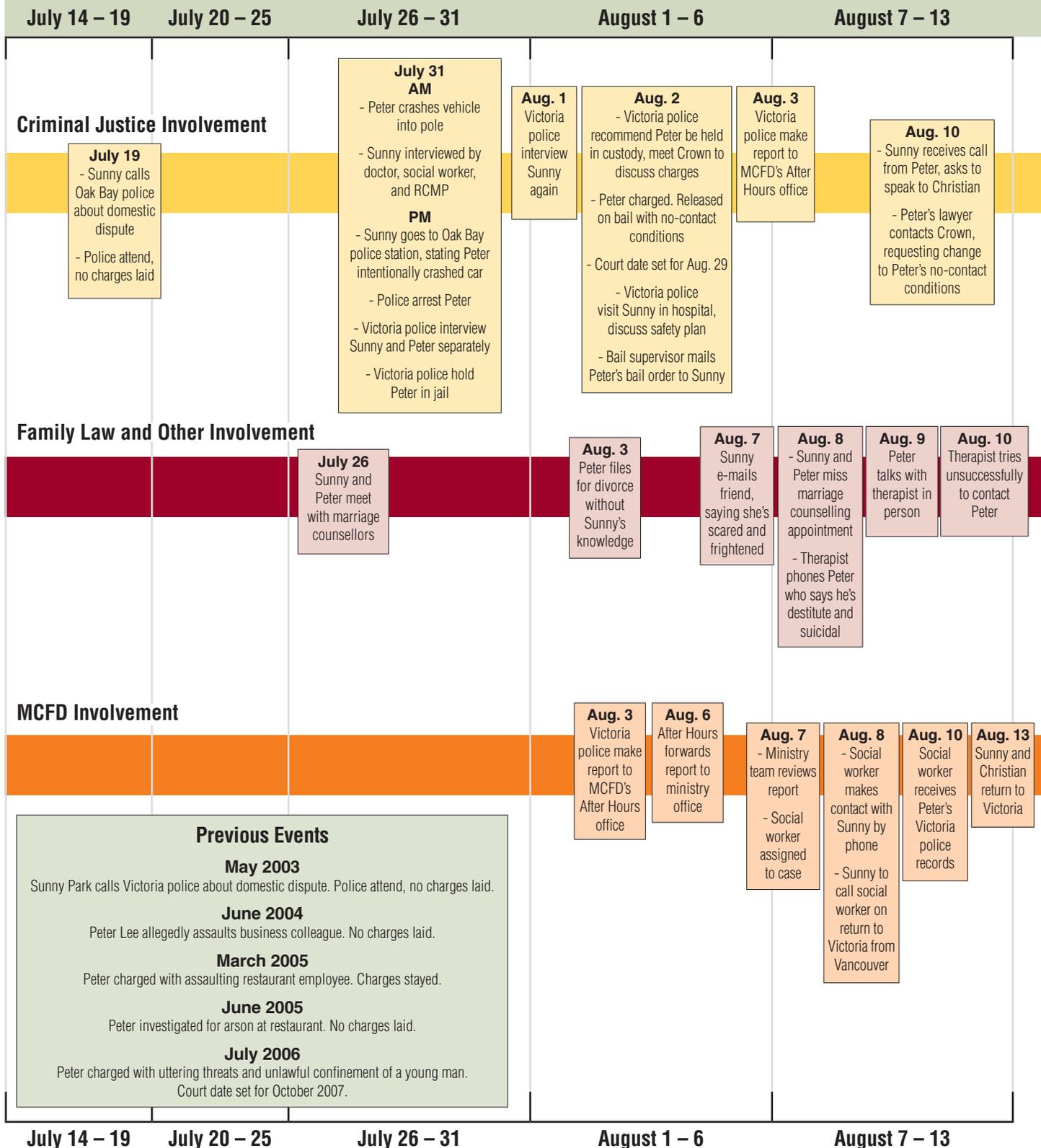
When Sunny consulted a lawyer approximately three weeks later, she still had a large bandage over her nose and an arm sling to demobilize her arm. The lawyer said she needed assistance to get around.

The police officer reported that the conditions of Peter's release included a no-contact condition with Sunny, and no-go conditions to the family residence and restaurant. He noted that Peter had no job, no residence, and was destitute. The police officer believed that he might try to make contact with his son Christian, who was not part of the no-contact order.

Additional background information about the family was also provided by the police officer to the After Hours social worker. Peter, Sunny, Christian, Sunny's parents and her sister had been living in a house in Oak Bay. The couple's business and financial interests had been signed over to Sunny. Although there was a long history of domestic violence, this had not been reported to police and Peter had never before been charged in that regard. It appeared that Sunny had been the sole target of violence and that Christian had not been the direct victim of any physical abuse.

Timeline of Significant Events

2007

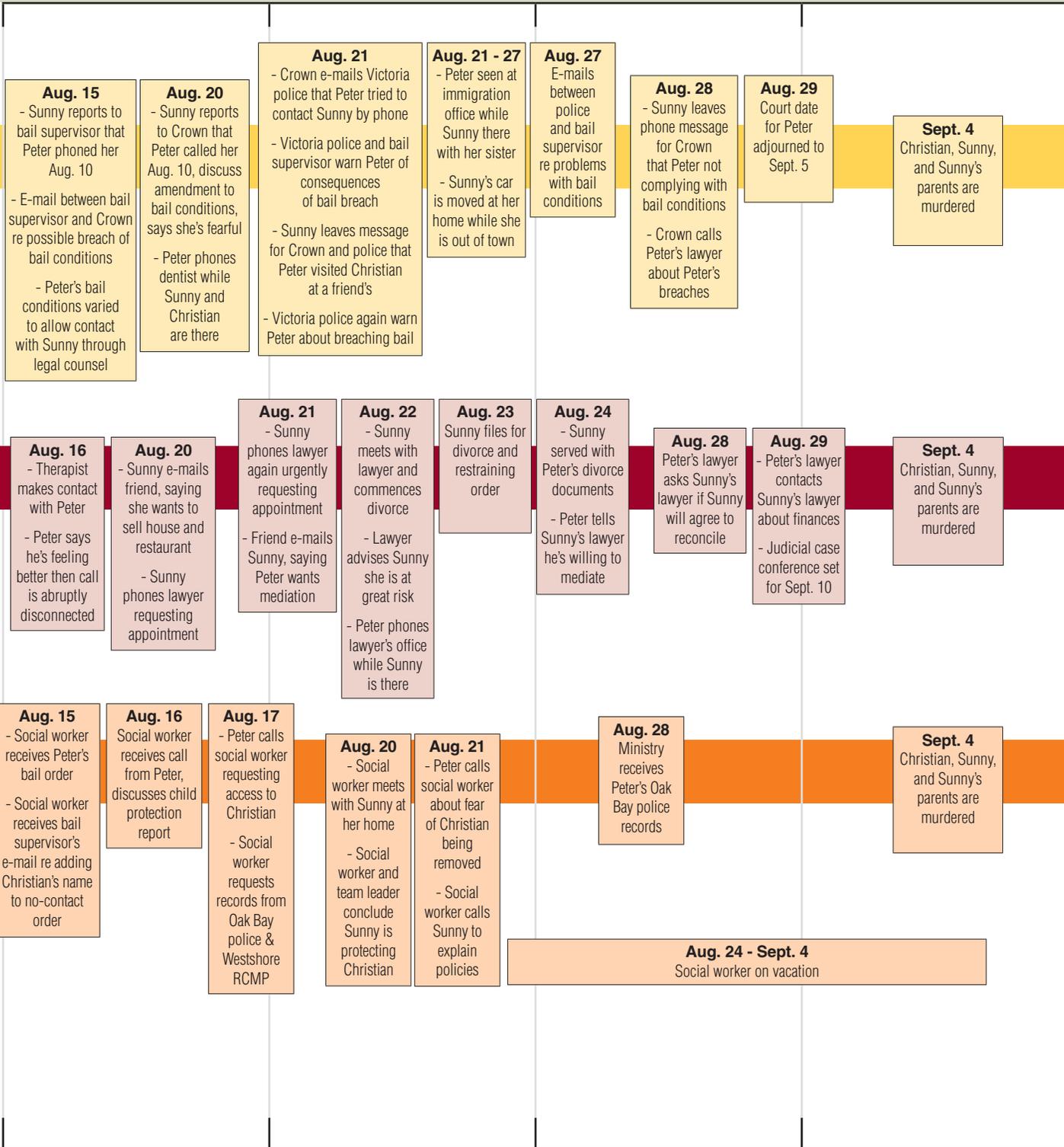


August 14 – 20

August 21 – 27

August 28 – 31

September 1 – 6



Aug. 15
 - Sunny reports to bail supervisor that Peter phoned her Aug. 10
 - E-mail between bail supervisor and Crown re possible breach of bail conditions
 - Peter's bail conditions varied to allow contact with Sunny through legal counsel

Aug. 20
 - Sunny reports to Crown that Peter called her Aug. 10, discuss amendment to bail conditions, says she's fearful
 - Peter phones dentist while Sunny and Christian are there

Aug. 21
 - Crown e-mails Victoria police that Peter tried to contact Sunny by phone
 - Victoria police and bail supervisor warn Peter of consequences of bail breach
 - Sunny leaves message for Crown and police that Peter visited Christian at a friend's
 - Victoria police again warn Peter about breaching bail

Aug. 21 - 27
 - Peter seen at immigration office while Sunny there with her sister
 - Sunny's car is moved at her home while she is out of town

Aug. 27
 E-mails between police and bail supervisor re problems with bail conditions

Aug. 28
 - Sunny leaves phone message for Crown that Peter not complying with bail conditions
 - Crown calls Peter's lawyer about Peter's breaches

Aug. 29
 Court date for Peter adjourned to Sept. 5

Sept. 4
 Christian, Sunny, and Sunny's parents are murdered

Aug. 16
 - Therapist makes contact with Peter
 - Peter says he's feeling better then call is abruptly disconnected

Aug. 20
 - Sunny e-mails friend, saying she wants to sell house and restaurant
 - Sunny phones lawyer requesting appointment

Aug. 21
 - Sunny phones lawyer again urgently requesting appointment
 - Friend e-mails Sunny, saying Peter wants mediation

Aug. 22
 - Sunny meets with lawyer and commences divorce
 - Lawyer advises Sunny she is at great risk
 - Peter phones lawyer's office while Sunny is there

Aug. 23
 Sunny files for divorce and restraining order

Aug. 24
 - Sunny served with Peter's divorce documents
 - Peter tells Sunny's lawyer he's willing to mediate

Aug. 28
 Peter's lawyer asks Sunny's lawyer if Sunny will agree to reconcile

Aug. 29
 - Peter's lawyer contacts Sunny's lawyer about finances
 - Judicial case conference set for Sept. 10

Sept. 4
 Christian, Sunny, and Sunny's parents are murdered

Aug. 15
 - Social worker receives Peter's bail order
 - Social worker receives bail supervisor's e-mail re adding Christian's name to no-contact order

Aug. 16
 Social worker receives call from Peter, discusses child protection report

Aug. 17
 - Peter calls social worker requesting access to Christian
 - Social worker requests records from Oak Bay police & Westshore RCMP

Aug. 20
 - Social worker meets with Sunny at her home
 - Social worker and team leader conclude Sunny is protecting Christian

Aug. 21
 - Peter calls social worker about fear of Christian being removed
 - Social worker calls Sunny to explain policies

Aug. 28
 Ministry receives Peter's Oak Bay police records

Aug. 24 - Sept. 4
 Social worker on vacation

Sept. 4
 Christian, Sunny, and Sunny's parents are murdered

August 14 – 20

August 21 – 27

August 28 – 31

September 1 – 6

Chronology

This police officer's report to After Hours was the only direct contact between the ministry and the Victoria Police Department about this family, between Aug. 3, 2007 and the date of the murders.

On the day of the vehicle crash, Sunny was interviewed in hospital by Westshore RCMP, the police for the area in which the hospital was located. Sunny told them about Peter's violence towards her. She was advised to follow up with the police in the jurisdiction she lived in. When she was released from hospital later that day, Sunny followed this advice. She went to the Oak Bay police station, reported the domestic violence and asked about whether there was a way to prevent Peter from having further contact or coming to the house. She also stated that she believed the car crash was intentional. She said that Peter had deliberately tried to injure or kill her. The police advised her that since the incident had occurred in Victoria, the matter would be taken up by the Victoria Police Department.

While they were still in the hospital, both Peter and Sunny were in contact with a friend, a lawyer who had known both of them for about two years, and had acted for the restaurant in the matter of an insurance claim related to a fire at the restaurant. About two weeks earlier, this person had become aware of the violence toward Sunny, as Sunny and Peter had confided their marital problems to her when she met with them to attempt to informally mediate.

This individual felt very positively and warmly towards Sunny and Peter, and was taken aback when the issue of domestic violence was mentioned at this meeting. The nature and extent of the violence were not discussed. Peter expressed his hope the marriage would not end, while Sunny said she wanted a divorce. This individual encouraged them to try to work out their problems, and suggested they see a particular therapist.

In response to their calls from the hospital, this lawyer friend facilitated an agreement that Sunny's father would take Christian to Peter at the Victoria floatplane dock, so that Peter could take Christian to Vancouver to visit his family while Sunny recovered.

That plan did not come to fruition. Later that day, Peter contacted Sunny's sister saying he wished to take Christian in the family car. Sunny strongly objected. Because she didn't want Peter coming to the house, she told Peter to meet her and Christian at the Oak Bay Police station.

By the time Peter arrived, Sunny had told Oak Bay police about her belief that the crash was intentional. Peter was arrested by Oak Bay police, and was later transferred to Victoria police.

The Victoria police officers conducted individual interviews with both Peter and Sunny. During the interview with Sunny, she told them about an extensive history of domestic violence.

She reported that Peter had physically abused and assaulted her on many occasions, starting in 2003.

Sunny described intimidation and emotional and psychological abuse. She said that Peter had pressured her to have sex against her wishes on numerous occasions. She said that he had threatened to kill her and to kill himself. The report to Crown Counsel expressly records:

PARK states that LEE insists that they stay together and has threatened her in the past that if PARK ever tried to pursue a divorce he would kill her or both of them. PARK never made a complaint to police as she fears for her life and believed that if she had tried to make a complaint LEE would seriously harm her or worse kill her.

Sunny said the violence escalated in the months after she told Peter that she wanted to end their marriage. She believed that he would kill her if she pursued a divorce. She was afraid that if Peter was released, the situation would get much worse. Sunny also told police that Peter had told her that he would rather die than have a divorce and that he would kill everybody and then kill himself.

She told police that she did not always have confidence speaking English, and she felt nervous when speaking with police or other officials. She was much more confident speaking Korean. She said that Peter understood the Canadian system much better than she did, and that she was dependent on him to explain how the system worked in Canada.

During the police interviews, Sunny was most concerned about violence directed towards herself, and the safety of her parents and sister. However, in an Aug. 24, 2007, sworn affidavit, she stated that she was deeply concerned for Christian's safety, and worried that Peter might try to harm him in order to cause harm to her.

When Victoria police tried to interview Peter, he refused to offer his version of the collision events, on the advice of his lawyer. However, one witness interviewed for this investigation reported that Peter had stated that the incident occurred while he and Sunny were holding hands. Based on Sunny's statements to the police as summarized in the report to Crown Counsel, Peter's version was, at best, a half-truth:

LEE asked PARK several times if she would reconsider her decision to abandon the marriage. PARK stated that she wanted a divorce and LEE then began to drive the vehicle south on Shelbourne Street. PARK stated that LEE asked her to hold his hand and he reached back to the middle seat area [Sunny was seated in the back seat]. PARK took LEE's (sic) hand and asked her one more time if she would reconsider a divorce and PARK stated no. LEE then stated to PARK that he was sorry and drove the vehicle directly into a hydro pole and a large tree.

In two lengthy interviews with police at the Victoria police station in the hours after the accident, Sunny repeatedly emphasized, despite testing questions by police, that there was no way Peter would have said "I'm sorry Sunny" immediately prior to the crash had he not purposely crashed the vehicle. It is noted that at the time of the crash, Peter was on the driver's side wearing his seatbelt, while Sunny was sitting in the middle of the back seat without a seatbelt. It is noted that Peter's airbag deployed, and he came away from the crash with minimal injuries.

Police had recommended that Peter be held in custody and not released on bail. Although he did not have a criminal record, Peter was known to the police in relation to a series of violent incidents.

Police records indicate that in 2003 Victoria police responded to a domestic violence call at the family home and called MCFD to report it. However, there is no mention of the call from police in ministry records.

Peter had also been involved in two other incidents of assault prior to 2007. In June 2004, it was alleged that he assaulted a business colleague at the restaurant. No charges were laid in connection with this allegation.

In March 2005, it was alleged that he assaulted a restaurant employee. He was charged in connection with this incident, but those charges were stayed. He was also a suspect, but not charged, in an arson investigation in July 2005.

At the time of the car crash with Sunny, Peter was on bail, having been charged with uttering threats and unlawful confinement stemming from an incident on July 22, 2006 when a young man who had reportedly been promised a position at the restaurant phoned to express disappointment. According to the police report, Peter searched out the young man, forced him and his girlfriend into a car, drove them to a beach, and forced the young man to go through a series of physical exercises and callisthenics. He reportedly made the young man throw all his jewellery into the ocean, stand in the water with his arms out, and do sprints in the water and on the beach. Then he forced the young man to take a large rock and smash his own toe. Peter drove away with the man's girlfriend in his vehicle, leaving the man to walk home on his injured foot.

A court date was scheduled for Oct. 24, 2007, in relation to this incident. It is not clear whether or to what extent Sunny was aware of the incident or the charges.

After the car crash, the matter had proceeded before a justice of the peace by way of telebail and Peter was remanded in custody to appear before a provincial court judge for a bail hearing. The following morning, Aug. 2, 2007, the Victoria Crown Counsel office assumed conduct of the matter. That is because in British Columbia, charges are not permitted to proceed to court unless a charge assessment review has been conducted by Crown Counsel. As a result of the bail hearing, Peter was released on bail.

In the week before the car crash, on July 26, 2007, Sunny and Peter attended an initial session with two psychologists who often work together providing couples therapy. On the advice that Sunny and Peter had been given by their lawyer friend, Peter had called their office. He spoke with the female therapist, who had answered the phone. He asked if the male therapist was fair and if he tried to help couples stay together or tried to split them up. Having been reassured, he made an appointment for himself and Sunny with the male therapist.

When they arrived, the female therapist was outdoors, and observed that Sunny was very distressed as she got out of the car. Sunny said she was upset because Peter had driven too fast. The female therapist offered to participate in the session if that would make Sunny feel more comfortable, and Sunny readily agreed.

According to the therapists, Peter was there to save the marriage, while Sunny wanted the marriage to be over. Sunny said that she had tried to leave many times, but Peter had always convinced her to stay. During the session, the issue of violence quickly came out. Peter did not deny that he had been abusive. He acknowledged each incident that Sunny brought up, apologized, and said he had been stupid. His behaviour was respectful and although he was expressing his emotions, he remained very much under control.

Peter felt very upset that his in-laws had been living with them, and said that they had never accepted him. He felt they interfered in the marriage and this was a major issue because he attributed the failure of his first marriage to his previous mother-in-law's interference.

The therapists told RCY investigators that Sunny was difficult to understand, that her command of English hindered her ability to express herself. They felt that she had to search for the right words. Sunny's behaviour was fearful, but at the same time she did not back down, and expressed her views and confronted Peter.

They advised Peter that if he wanted his marriage to succeed, he would have to change, and stop pressuring Sunny. They discussed separation and the need to work to ensure that Christian's needs were put first. The therapists felt that they did not have enough information to make a proper assessment. A plan was made for another session on Aug. 8, 2007.

While investigating the July 31, 2007 car collision, police found other entries concerning Peter on the police data system, which had not resulted in charges. Both were related to domestic violence. The first entry detailed a 2003 incident, when Christian was a baby. Peter was trying to leave the house to go gambling and Sunny, who was holding Christian, tried to prevent him from leaving. Peter pushed them both down. Sunny called the Victoria police, who attended and settled the incident by having Peter leave the house for the night.

The second police entry, identified as a verbal dispute with no assault, was dated July 19, 2007. The couple was having an argument, and Sunny phoned police. Oak Bay police responded and found the couple talking calmly in the living room. Sunny, her parents and Christian left the home and spent the night in a hotel.

In addition, in May 2005, a neighbour reported seeing Christian locked in a car in the family's driveway. Police visited the home and had no concern for Christian's well-being, and no further action was taken.

The Victoria police officers interviewed Sunny's sister. They also obtained a statement from the emergency room doctor who first identified that the crash may have been deliberate, and they then initiated a collision analysis of the car crash.

Police summarized this information in their report to Crown Counsel, along with their reasons for recommending that Peter be held in custody to await his trial. They also arranged a face-to-face meeting with the Crown prosecutor. According to the officers, a meeting of this nature is a rare exception and it was motivated by concern about the danger Sunny and her family were facing.

The police officers believed that Peter posed a serious risk to Sunny, and that he would not abide by court-imposed conditions to have no contact with her. They noted he had indicated he was unwilling to allow his wife to leave him and had told her he would kill her rather than agree to a divorce. The police believed he had already taken obvious steps to cause serious injury to her and they felt compelled to review the circumstances directly with Crown Counsel.

Police were recommending charges of aggravated assault and dangerous operation of a motor vehicle. Police also recommended to Crown Counsel that Peter be held in custody and not released on bail. If there were insufficient grounds to hold Peter in custody, then police thought Crown Counsel could seek a high cash bail in the range of \$50,000, which officers believed he would be unable to meet.

At the 2008 coroner's inquest Crown Counsel provided a document entitled "Crown Counsel Clear Statement". It states that the Crown prosecutor "understood and appreciated the concerns the police expressed: that Peter Lee was a potential threat to his wife, Yong Sun Park." However, the statement also notes that, based on the information available to Crown, Sunny had been inconsistent in what she said at first while in hospital, compared with what she later told police. Crown states that "there was no evidence of threats or violence immediately preceding the collision: this, coupled with reports from independent witnesses of Peter's actions following the collision were consistent with this being an accidental collision as opposed to intentional." In this regard, a witness statement from the scene does record Peter saying to a witness to the scene "my wife" and "I went to hold her hand". This is the same version of events he gave to the lawyer friend later that day.

Peter appeared in court on Aug. 2, 2007. Crown Counsel decided that she could not charge aggravated assault, and that she would charge "unlawfully causing bodily harm" and "dangerous driving causing bodily harm". Crown Counsel also decided, based on her assessment of the law and the facts as she knew them¹, that there was no prospect that a judge would detain Peter in custody to await trial. In arriving at this conclusion, Crown Counsel considered Peter's lack of criminal record, the lack of breach allegations on his existing bail order from the summer of 2006, the lack of evidence of a mental disorder, Peter's ties to the community, the understanding that he would have no further access to weapons or firearms from the military and "the lack of detailed evidence that would be provided to the court or that would allow the Crown to conduct a charge assessment in relation to further criminal charges".

¹ Consistent with the overall theme of this report it is important to note that all the information gathered in this section was not known to all relevant officials at all times, including Crown Counsel.

Crown Counsel proposed a consent release with bail at \$10,000, which was reduced to \$5,000 after discussions between the Crown prosecutor and defence counsel on Aug. 2, 2007. A further restriction was added relating to not attending at the family restaurant. This was agreed to by Peter's counsel, and as a result there was no formal bail hearing. Although Peter's matter was called in court, the hearing was administrative in nature. Crown Counsel advised the judge that she had signed off a consent release, and the matter was struck off the list. The bail conditions, under which Peter was released on Aug. 2, 2007, were as follows:

- Keep the peace and be of good behaviour
- Report in person to the bail supervisor immediately upon release from custody and thereafter as directed but not less than one time per week
- Notify the bail supervisor of your current residential address and do not change that address or any subsequent address without prior written permission of the person who is supervising your bail
- Not to contact or communicate directly or indirectly and shall stay away absolutely from Yong Sun [Sunny] Park
- Not to attend (the family home) except on one occasion in the company of a peace officer to obtain your personal belongings
- Not to be in possession of any knives except for the immediate preparation or consumption of food
- Not to be in possession of any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, and any related authorizations, licences, and registration certificates until you are dealt with according to law
- Not to be found in the [family restaurant] except on one occasion in the company of a police officer to pick up personal belongings

On Aug. 2, 2007, the bail supervisor mailed a copy of the bail conditions to Sunny and included information about spousal victims' services.

Peter filed for divorce on Aug. 3, 2007, as well as a writ of litigation against the family residence. Sunny and others involved in the domestic situation were unaware of this.

Also on Aug. 3, 2007, police phoned the report to the ministry After Hours office. The After Hours social worker reviewed the report and determined that Christian was not at immediate risk of harm. The After Hours social worker forwarded the report to the ministry office on Aug. 6, 2007, which was a statutory holiday. The report was reviewed by the ministry team at their intake meeting on Aug. 7, 2007.

In assessing the report, the team noted that MCFD had no prior contact with Sunny or Peter. They wondered how this could be the case. The report from the police officer noted a long history of domestic violence, yet the ministry had no documented reports about the family.

At the intake meeting, the team decided to first gather more information about the circumstances. They decided to meet with Christian's parents and request the police records to further assess the situation. At this point, the team knew about the history of domestic violence, and there was no information to indicate that Christian had been the direct victim of any physical abuse.

The file was assigned to an experienced social worker. The social worker left a phone message for Sunny that same day. She also requested records from the Victoria Police Department pertaining to the car collision, and records of any other police involvement and any relevant information regarding criminal activity, occurrences and/or criminal records for Christian's father and mother.

The next day, Aug. 8, 2007, the social worker received a phone call from Sunny, who said that she and Christian were staying with family in Vancouver. She said that Peter had been abusing her over the previous seven years and that the situation was getting worse, particularly after she decided to get a divorce. She told the social worker that she believed he had deliberately caused the car crash in an attempt to injure her.

The social worker understood that there was a restraining order in place, and she suggested that Sunny get Christian's name added as a 'no-contact' person. Sunny stated that she was planning to return to Victoria on Aug. 13, 2007. The social worker decided to wait for Christian and his mother to return, in order to further assess the family. The social worker asked Sunny to call when she returned to Victoria.

After Peter was released on bail, Sunny wrote an e-mail to the lawyer friend of the couple, who was then overseas on vacation. An Aug. 7, 2007 e-mail stated that Peter had: "signed the peace agreement but he hasn't complete what he signed for" (sic). The same e-mail stated: "please (name) take this matter seriously i am scare and frighten. i left a message on your cell please help me here. i am looking forward to hearing from you soon. sorry to bother you on your vacation. you are the only person i can talk right now" (sic). On Aug. 9, 2007 the trusted friend responded that it was time for the couple to hire separate lawyers.

When Peter and Sunny did not appear for their previously scheduled appointment with the therapists on Aug. 8, 2007, the male therapist called Peter, who said there had been a minor accident. He said that Sunny had charged him with dangerous driving and he had been in jail for a day. He described being in jail as the worst experience of his life. He told the therapist that he was not allowed to go home or see Christian, and that he had no money and nowhere to live. Peter reported feeling suicidal, and agreed to call the therapist if he needed immediate help.

Chronology

The next day, Peter came into the office without calling or making an appointment. The male therapist saw him and advised him that he could not help him with his legal problems. Peter said he could live with some friends in Vancouver. A plan was made for him to call the therapist.

On Aug. 10, 2007, the MCFD social worker received a response to the request for records from the Victoria Police Department. This response arrived under two separate fax covers. The first one listed Peter's police history dating to May 2003 of assault, arson and criminal harassment incidents in which police were involved, but Peter was not convicted of an offence.

The second fax was a condensed version of the police report to Crown Counsel about the July 31, 2007, incident. It outlined the family background and the circumstances of the incident, plus the individuals to be interviewed. It provided no details of the police investigation. The Victoria police recommended that the ministry also request records pertaining to Peter from the Oak Bay Police Department and the West Shore RCMP. The social worker requested those records one week later.

On Aug. 10, 2007, Sunny received a phone call from Peter asking to speak to Christian.

Also on Aug. 10, 2007, Peter's criminal lawyer contacted Crown Counsel requesting an amendment to bail conditions, to relax the "no contact" and "no go restaurant" (sic). Crown Counsel attempted to contact Sunny but did not receive a reply.

On Aug. 15, 2007, Crown Counsel again tried to contact Sunny, leaving another message. On that date in court, Peter's bail was varied by consent to allow contact with Sunny *only through legal counsel*.

Also on Aug. 15, 2007, Sunny reported to Peter's bail supervisor the Aug. 10, 2007 phone call as being a breach of the no-contact provision. The bail supervisor noted at the time that Sunny was fearful and had been hiding in Vancouver with her family.

The bail supervisor e-mailed the MCFD social worker on Aug. 15, 2007. The bail supervisor asked the social worker for an opinion as to whether Christian should be added to the order. The social worker replied that she was not in a position to comment on whether Christian was safe because the ministry needed to meet with his mother and get more information in order to assess the child's safety. The social worker had not at that time met Sunny.

After returning from court on Aug. 15, 2007, Crown learned that Peter's bail supervisor wanted Crown to apply to add Christian to the no-contact clause in the order, and also that Peter may have breached the order. The same day, Crown e-mailed the bail supervisor advising her that a possible breach needed to be reported to police or sent to Crown via a s. 524 *Criminal Code* warrant request. Crown Counsel also advised the bail supervisor that there were no grounds to add Christian to the order. Crown then attempted to contact Sunny again by phone, but without success.

On Aug. 16, 2007, Peter called the social worker. He said he was staying in Victoria, that he had been the primary caregiver for Christian and he had no concerns about Christian staying with his mother. He admitted there was a history of domestic violence, which he described as being mostly verbal and some pushing. He acknowledged that Christian had possibly witnessed the violence. He referred specifically to the July 19, 2007 incident when his wife had called the Oak Bay police. Peter described tension in his relationship with his in-laws. He stated that he and his wife had begun marriage counselling and had attended one session the week before the July 31, 2007 car crash.

Also on Aug. 16, 2007, the male therapist was successful in reaching Peter, who had not called as planned and who had not answered calls on his cell phone. Peter said he had been in Vancouver. He reported that he was much better and not feeling suicidal. The call was ended abruptly mid-discussion. The therapist attempted unsuccessfully to reach Peter again. This was Peter's last contact with the therapist.

On Aug. 17, 2007, Peter called the social worker again, wanting access to Christian. The social worker advised him to consult a lawyer.

On Aug. 20, 2007, Sunny spoke to Crown Counsel. She stated she had been away with Christian, but was now back in the family home. Crown reported that:

Yong Sun Park was still fearful of the accused Peter Lee, and she reported that the accused had phoned her on August 10, 2007, requesting to speak to their son. She said that she had reported this to [the bail supervisor] and [an investigating police officer]. [Crown Counsel] told Yong Sun Park that she would email [the police officer] and ask her to investigate and submit a Report to Crown Counsel if warranted. [Crown Counsel] discussed with Yong Sun Park the bail amendment allowing contact via legal counsel. Yong Sun Park was content with this amendment as Peter Lee's lawyer had been attempting to reach her. [Crown Counsel] also strongly urged Yong Sun Park to seek the advice of a family law lawyer regarding custody and access issues involving their son, Christian.

Also on Aug. 20, 2007 – 17 days after the report first came in to the ministry and 13 days after the social worker was assigned to assess the family – the social worker conducted a home visit. Christian was at the front door when she arrived. During the meeting, he went in and out of the living room until his mother told him to go to his grandmother. He was not separately interviewed by the social worker. The meeting lasted more than three hours.

Sunny described her husband as being very controlling and manipulative. She said he had a bad temper and had broken furniture in fits of rage that had been witnessed by Christian, her father and her sister. She said Christian had seen her and Peter fighting throughout the previous years.

On one occasion while driving, she said, Peter had punched her in the nose with his fist when Christian was in the back seat. She said he had made threats against her family members and described an incident in which he held a knife and made stabbing motions, saying he was going to kill her. She said her sister and Christian witnessed this. She added that Peter had never hit his son, although he often yelled at him.

The social worker talked with Sunny about her safety plan. The social worker referred her to a number of community services: the Victoria Family Violence Project; the Children Who Witness Violence Program; Transition House and its counselling services; and the Victoria Separation and Divorce Resource Centre.

The social worker talked again with her about having Christian's name added to the no-contact order. The social worker was confident that Sunny would review these referrals with her lawyer the following day. The social worker believed that the lawyer would assist her with follow-up and with getting Christian's name added to the no-contact order. The social worker also talked to Sunny about organizing supervised visits between Christian and his father.

Sunny said she felt safe because her parents and sister were living in the home with her. She had changed the locks and the alarm code in the home. She did not believe that Peter would come to her house, and said she would call the police or the ministry if anything happened.

The social worker advised the mother that if Christian were exposed to further domestic violence or if he were in his father's sole care, the ministry would need to reassess his safety and consider taking more intrusive measures. She explained to Sunny that she had the authority to remove a child, but considers other measures first. This alarmed Sunny, and was reported to Peter by Sunny's sister. The next day Peter phoned the social worker and expressed concern about this possibility.

The social worker finished the interview feeling confident that Christian was safe. Although the social worker was concerned about Christian witnessing more violence if his two parents were together, she concluded that his father was not a direct threat to Christian.

The social worker left the residence and consulted with the ministry team leader. They discussed the home visit from the perspective that the child's safety was secured through the safety of his mother. They concluded that the mother was protecting Christian. They decided that the most appropriate response to the report was to proceed with referring the mother to community services.

The social worker was going on vacation from Aug. 24 to Sept. 4, 2007. The social worker's plan was to check in with Sunny again after her vacation, and then close the file.

On Aug. 20, 2007 – the same day as the telephone discussion with Crown Counsel and the social worker's home visit – Sunny called a local lawyer who specialized in family law, referred by the couple's lawyer friend. The lawyer was unable to return the call that day.

It is noteworthy also that on Aug. 20, 2007, Sunny had taken Christian to the dentist, at a time different from the scheduled appointment. Peter phoned the office while they were there, asking to speak to Christian. It is not known how Peter knew about the dental appointment.

On Aug. 21, 2007, Sunny called the lawyer again, stating it was urgent. The lawyer called back and a meeting was arranged for Aug. 22, 2007.

Also on Aug. 21, 2007, Sunny left a voice message for Crown Counsel. She stated that Peter had seen their son at mutual friends' house, without her being told. She told Crown Counsel that when she got home she found a car on their property had been moved, and she suspected Peter had moved it. She advised Crown their son had been at the dentist that day and Peter had called the dentist, and she was worried Peter was following her.

The same day, Sunny called the Victoria police detective and reported these concerns. Police contacted Peter's bail supervisor the same day and informed her that while no charges would be laid, he would be calling Peter to remind him of his conditions. That afternoon, the police officer contacted Peter and stated he was "dangerously close" to breaching his bail conditions. After reminding him of his conditions, and in particular the fact that he was to have no contact except through a lawyer, the officer was reassured by Peter that he "understood fully".

On Aug. 21, 2007, Peter called the social worker about access to Christian who told him again he should seek legal counsel, and explained that custody and access matters are outside of the mandate of the ministry.

On Aug. 22, 2007, Crown attempted to call Sunny but got no answer. That same day, Sunny attended her first meeting with her lawyer, accompanied by her mother and father.

Sunny told her lawyer she wanted a divorce and she wanted to move forward quickly. Her primary concern was Christian, and she was concerned about his impending start to Grade 1. She also felt she had to close the restaurant because she had been told her injuries could take a year to heal. She had also begun to feel that Christian may be in danger because she learned that Peter had been trying to arrange visits with Christian through an intermediary. Peter had told Christian these visits were secret and he should not tell his mother about them.

Sunny told the lawyer she and Peter had separated on July 31 after the car crash, and said she felt Peter drove into the tree out of frustration at his inability to control her. She believed Peter had a compulsive disorder, and noted that he had a problem with gambling and had treatment for a drinking problem five or six years earlier. Sunny described a history of Peter hitting her and breaking things. She said Peter had not been allowing her to speak.

Sunny told the lawyer Christian had seen fighting and heard yelling, and she was concerned that Christian was at times beginning to act and talk like Peter.

The lawyer advised Sunny that although an application for a restraining order would be made, it alone could not protect her. Sunny was told she would need a safety plan, and that in her case that meant she absolutely should not return to the family home. The lawyer discussed the risks, and what they were based on. These included Peter's familiarity with knives and other weapons, gained from his military background, and Sunny's stated concern for her safety, as well as her parents' and Christian's well-being.

Sunny supported a strategy of filing for divorce on the grounds of physical cruelty, which her lawyer indicated was not the typical approach. However, Sunny was clear that she was prepared to go to court if necessary to prove the case, pointing out that Peter had tried to kill her by crashing into a utility pole. She also wanted the divorce as quickly as possible, and did not want to wait for the year it would take to divorce on the basis of having been separated for a year.

During the consultation, in an incident mirroring what had happened at the dentist's office the day before, Peter called the lawyer's office and told the receptionist he knew Sunny was there talking about divorce. He made this phone call despite the conversation he had with the police officer the previous day.

The next day, Aug. 23, 2007, Sunny's lawyer filed a writ of divorce and statement of claim. The court registry informed her that Peter had already filed for divorce on Aug. 3, 2007. He had never served the papers on Sunny.

On Aug. 24, 2007, Sunny attended a second appointment with the lawyer. At this time, the lawyer served her with Peter's statement of claim, and then proceeded to re-draft Sunny's documents as a counter claim.

The same day, Peter called Sunny's lawyer and indicated he wanted to cooperate, that he would back down and mediate instead. He was told the lawyer could not speak to him. Sunny's lawyer e-mailed Peter's lawyer and requested that he not contact her again.

On Aug. 27, 2007, Peter's bail supervisor e-mailed the Victoria police saying that she had not been able to confirm Peter's address, as stipulated in his bail conditions. Peter had provided her with at least two different addresses, one on the Lower Mainland and one in Victoria. The police replied by e-mail asking if the bail supervisor could notify Crown Counsel that Peter was "making his supervision difficult to handle."

On Aug. 28, 2007, the lawyer saw Sunny for what turned out to be the last time before the murders. Peter's lawyer had requested that Sunny be canvassed again about her willingness to reconcile. Sunny was clear that she wanted to proceed with the divorce as quickly as possible. Sunny's lawyer, who has had a family law practice for many years, felt this case was very extreme, and told office staff of concern that Peter would not stop until he killed Sunny. It was the lawyer's belief that Sunny was living in Vancouver throughout this time. Sunny was always accompanied by her father, and they spoke of taking the ferry to Victoria to attend appointments.

Also on Aug. 28, 2007, Sunny left a voice message with Crown, again expressing concern that Peter was not complying with his bail terms. She stated she did not want any relaxation in bail conditions. Following this call, Crown contacted Peter's defence lawyer, warning him that, based on what Sunny was telling Crown, his client was risking a breach charge. When the defence lawyer asked Crown to consider relaxing the order to allow Peter to attend the restaurant, Crown advised that no further amendments would be considered at that time.

The same day, Aug. 28, 2007, MCFD received a response to its request for Sunny's and Peter's records from the Oak Bay Police Department. This contained information about Sunny providing a statement after the car crash on July 31, 2007, the domestic dispute call of July 19, 2007, a call from Peter on Feb. 2, 2007 when he suspected someone was prowling around their Oak Bay house, and a 2004 incident when the Oak Bay police spoke with Peter about a group of intoxicated students causing a public disturbance.

These records arrived when the social worker was on vacation and they were not reviewed by anyone at the ministry in her absence.

During the four weeks that the ministry was involved with the family, the file remained assigned to one social worker. The supervision was covered by two different acting team leaders and one permanent team leader. For one week, the social worker assigned to the file was also acting as the team leader. The ministry had no further contact with Christian's family.

On Aug. 29, 2007, Peter's criminal charges were again before the court, as required by his amended bail order. The parties to that appearance were Crown Counsel and an articulated student for the defence. Peter was not present. Crown Counsel advised the court that the Crown was providing the defence with a disclosure package. Counsel advised the court:

I'm indicating to my friend by way of notice that the bail supervisor contacted us. She indicates that she's having problems monitoring Mr. Lee on the recognizance upon which he was released, specifically condition number 3, and I'll discuss that further with my learned friend. But on the next occasion I'm going to – if the – if that particular issue is not resolved, I'll ask the probation officer to forward the breach.

Following that appearance, the matter was put over to Sept. 4, 2007.

Circumstances of Death

The following information was derived from forensic identification provided at the coroner's inquest.

In the early hours of Sept. 4, 2007, Peter broke into the home where Christian, his mother and his grandparents were sleeping. He carried duct tape, binoculars, gloves, a lighter, a plastic bottle filled with kerosene, and a 12.5 cm, single-edged knife. He entered through a window in a manner that he knew would not set off the home security alarm.

Peter poured the kerosene on one side of the bed where Sunny was sleeping, and began repeatedly stabbing Sunny first, and then the grandparents as they tried to stop the attacks. The grandmother dialled 911 but during the call, after being stabbed a number of times, she fell with the phone under her and the call was disconnected.

During the attacks, Christian came into the master bedroom. His father stabbed Christian 20 times in the chest.

The 911 operator had been trying to call back since the first call was disconnected. Eventually the operator's call was answered by Peter who said, "We're all having a fight right now. Send ambulance and fire right now," and then he hung up.

Peter knelt over the bodies of Christian and Sunny, and stabbed himself repeatedly in the heart. All five were dead by the time police entered the home.



MCFD Internal File Review

The ministry conducted an internal file review of its services to Christian's family. The review appears as Appendix B in this report.

The review was completed on Feb. 21, 2008. Its objectives were to examine the practice, at an individual case level and at a systemic level, as it related to Christian's family and community circumstances. The review was to pay particular attention to ministry planning and decision making, and to identify practice strengths and areas for improvement. The review was limited to an examination of file documentation and did not result in findings.

The review report issued three recommendations:

- Recommendation:* Victoria City Police [sic] and the ministry offices in Victoria will develop a more cooperative and integrated response to domestic violence incidents.

Strategy: The community service manager will arrange a meeting by February 29, 2008 with the Victoria City Chief of Police [sic] to discuss protocols and strategies for working together in domestic violence situations.
- Recommendation:* The ministry's practice guidelines for domestic violence cases will be promoted amongst social work staff in the Greater Victoria Area.

Strategy: The community services manager will distribute the document "Best Practice Approaches: Child Protection and Violence Against Women" to team leaders in the South Island by February 29, 2008.
- Recommendation:* The Victoria child protection services team [Jutland Road office], will review the best practice guidelines in domestic violence cases including assessing the appropriate response to child protection reports in these cases.

Strategy: The child and family development consultant for the South Island will give a presentation to the team on the guidelines in "Best Practice Approaches: Child Protection and Violence Against Women" and offer the same to other teams in the South Island by March 31, 2008.

The Representative's investigators were told that a protocol agreement for information sharing between the ministry and the Victoria, Oak Bay and Saanich police departments is currently being drafted, as per Recommendation 1. Although protocols formalize an information-sharing process, this investigation did not identify a lack of mechanisms for information sharing as an underlying issue in service provision to Christian's family. Legislation permitting the free exchange of information between the ministry and all police departments already exists yet the exchange of critical information did not take place.

The ministry's file review report was distributed to staff who had been involved with Christian's family. The entire child protection team of the Victoria office participated in the presentation referenced in Recommendation 3.

The Representative's investigation was not able to determine whether these activities had an impact on the social work practice of any of the staff interviewed. If the purpose of the ministry file review was to identify ministry practice strengths and areas for improvement in order to affect services to families in similar situations, then the review report did not appear to be effective in this regard.

The Representative's independent investigation, in contrast with the ministry's internal review, identified issues that were not captured, including practice challenges, the impact of domestic violence policy across systems, standards, and interagency coordination.



Analysis and Recommendations

Overall Finding

The lack of a system-wide domestic violence response across criminal law, child welfare and family justice sectors, and the absence of a thorough and fully informed assessment of the risk of harm and lethality posed by Peter Lee placed Christian Lee and Sunny Park in grave danger without an adequate safety plan.

Christian Lee was a victim of domestic homicide, and he was repeatedly exposed to domestic violence over the course of his short life. While the Representative's investigation focuses primarily on the ways in which the child welfare system responded when they became aware of risks to Christian's safety, the investigation also provides an opportunity to examine how the broader systems support children exposed to domestic violence in B.C.

Child welfare, criminal justice and family justice systems must work together to provide safety for victims of violence, and effective and responsive services and support for victims, perpetrators and especially children.

The child welfare system is linked to these other systems, and many avenues of support are essential to respond to partner or family violence. When violence is "hidden" within a family setting, the supports necessary for safety and well-being are not activated. Violence in a family has many negative impacts on children, depending on the degree and frequency of their exposure. This can be true even when children appear to be only passive witnesses. They can also become direct victims. In some instances, sibling violence occurs. As with Christian, in rare but terrible cases, children can be the targets of homicidal violence by a parent.

Children exposed to domestic violence deserve and require the support of a strong system of services which reinforces our abhorrence of violence, protects victims and rehabilitates offenders. Strong and effective approaches are integrated across child welfare, family justice and criminal law systems. These approaches include:

- immediate response
- victim support
- tools and standards to assess risk and harm, and
- programs and supports to mend the harm.

Education about their right to be safe, including in their family, is an essential factor in helping children actually be safe. This right is recognized under Article 19 in the United Nations Convention on the Rights of the Child and by extension in the right to security of the person in Section 7 of the Canadian Charter of Rights and Freedoms.

The Representative's objective in this investigation is to determine whether the services, or the policies or practices of a public body, whether by act or omission, may have contributed in any way to the child's death.

In answering this question, it is important to emphasize at the outset that the clear and immediate cause of Christian's death was the shocking and horrific act of Peter Lee. Peter was prepared to take his own life in order to carry out a deliberate and methodical plan, despite the terms of a criminal court order, despite his promises to abide by the no-contact and no-weapons conditions, despite supervision by a bail supervisor, despite ongoing involvement of the police, the Crown, and the ministry, and despite his own parental instincts as a father of a young boy.

Nothing in this report can or should diminish the fact that Peter Lee was the cause of Christian's death.

However, it is the job of the Representative to delve deeper and ask difficult questions: based on the information available at the time, did the system in some way *contribute* to Christian's death? Was this terrible tragedy predictable? Was the murder of this child avoidable? Sunny believed she was in mortal danger. Did her fear lead to effective supports or interventions by any of the state systems? Should more have been done to protect Christian and his mother from Peter?

It is not possible to say that in August 2007 a single responsible professional in one of those systems could predict that Peter was going to embark on a murderous rampage one month later. Had there been a coordinated system linking the efforts made by criminal justice, child protection and family justice professionals, each would have had the benefit of all available information necessary to undertake a full and proper risk assessment. This in turn would inform a proper safety plan and might have provided the added reinforcement necessary to support her lawyer's advice that Sunny not return to the family home. All involved would have likely shared the concern raised by the police and held by Sunny's lawyer that this was a situation of high danger:

- Despite early concerns about Sunny's answers and behaviour in hospital early in the investigation, police were convinced by mid-August that the car crash was intentional. This act of violence resulted in serious injuries to Sunny. Peter's earlier anti-social behaviours toward Sunny and others, his previous threats, military training and stalking behaviour despite warnings from his bail supervisor and police – these all confirmed Sunny's fears and pointed to a high risk of violence, including potentially lethal violence.

- The risk of spousal violence necessarily raised concerns about Christian's safety and well-being, both physical and emotional. Even assuming that the demonstrable risk of violence was focused on the mother, it is understood that in domestic violence situations children are often "caught in the crossfire" both physically and emotionally. Bail conditions allowed Peter to have contact with Christian, and this gave him an apparent loophole with which to contact and even stalk the mother.
- Police assessed Peter as being sufficiently dangerous that he should be detained, given his escalating anti-social behaviours. Once granted bail, police were sufficiently concerned about the risk he posed that they contacted MCFD.
- Evidence shows that Peter became increasingly desperate, even talking about suicide. Different details were known to police, lawyers and therapists, but there was no system in place so that they all got a full picture to inform their decision making.
- The family justice system does not support immediate and safe management of cases involving domestic violence. For example, lawyers for victims of family violence have no clear path to participating in an overall safety plan.
- The lack of direct communication, information flow and consultation between police and social workers adversely affected the ability of social workers and others to assess – both initially and over the course of the month – the danger to the mother and child.

The Representative has considered the question of whether, based on a full and proper understanding of child protection legislation, this degree of risk would have been sufficient at the time to justify the removal the child. This question is considered on the basis that Peter was allowed to live in the community on bail, and Sunny was at such high risk from Peter that she was effectively unable to guarantee Christian's safety.

Based on today's child protection law in B.C., this was not a clear case where the child should have been removed. Indeed, and regrettably, B.C. is a province where child protection legislation does not explicitly recognize the realities and dynamics of domestic violence. It would be unfair to blame social workers for the fact that the legislation under which they operate encourages an approach where the safety of the mother and child are viewed as totally independent of each other, and where despite a serious threat of harm to a mother, no protection issues would arise unless there is a direct physical threat to the child or evidence of severe emotional damage to the child. Later in this report, recommendations are made to address this gap in legislation.

While this was not a clear removal case, a proper risk assessment would have helped social workers and other agencies to:

- be more proactive with Sunny in helping her to recognize the risk
- formulate a realistic safety plan that would actually protect her and Christian rather than relying on her own ability to make such a plan
- proactively assist her in implementing that plan.

If all relevant agencies had a mechanism or process by which they gathered to discuss this case – including Crown, police, the bail supervisor and social workers – all the participants in managing this case might have come to a more fully considered assessment of the dangers Peter presented. That would have been especially important here, where Sunny was hearing other opinions from people without essential information who suggested solutions not appropriate to the threat that Peter presented.

It is impossible to know what Sunny would have decided if relevant agencies had sat down with her and an interpreter, to ensure that she could make a fully informed decision. She may have decided to stay in the house, or she may have moved away. It is impossible to speculate, but it is known she was afraid and she told police she believed Peter could kill her.

Christian's murder was not inevitable. Had he been in a safe environment, matched to the degree of risk, his death may well have been prevented.

As stated, it is not the purpose of this report to blame social workers, the police, Crown Counsel, lawyers or others. They could not participate in practices and procedures that did not and do not exist in this province. In specific ways practice was strong in this case, with determined efforts by one police officer in particular to shield Sunny and Christian from further violence. Yet the absence of a system, tools and appropriate supports is glaring.

The net effect was that all of the responsibility was left on one person, and that was Sunny. No person should have to take this on, especially someone who was likely reeling from the physical and emotional stress she was under at the time.

The purpose of this report is to focus on the need to learn, and to make recommendations that need to be implemented to give the victims of domestic violence, and the systems that support them, every opportunity to protect children.

Assessing the Safety of a Child Exposed to Domestic Violence

Finding: *Practice in this case did not meet timeliness standards, and the analysis and planning were narrowed by the child protection framework in place. Domestic violence is not specifically identified in legislation or policy as a reason that a child may be in need of protection.*

In British Columbia, the *Child, Family and Community Service Act (CFCS Act)* is the provincial legislation that provides the legal authority for child welfare services. The *CFCS Act* was enacted on January 29, 1996. The ministry's Child and Family Development Service Standards 2003 provide the practical framework for delivery of child protection and guardianship services, consistent with the *Act*. Neither the *CFCS Act*, nor the Standards contain specific provisions on working with families in domestic violence situations. The ministry does not have specific policy in that area.

New child welfare workers receive one day of training specifically on family violence. There is no provincial ministry training program for experienced child welfare workers in B.C. about working with children and families experiencing domestic violence.

In assessing Christian's safety within the legislation and standards, the social workers completed the assessment by interpreting Section 13 of the *CFCS Act*, applying Standards 11 and 12 of the Child and Family Development Service Standards, and using a locally developed screening tool.

Like any other child protection report, domestic violence reports are assessed within the sections of the *CFCS Act* that refer to a child's risk of physical injury and emotional harm. Section 13(1)(a)(c) and (h) consider risk of physical harm and provide that a child is in need of protection if the child has been or is likely to be physically harmed by the child's parent, or the child's parent is unable or unwilling to care for the child and has not made adequate provisions. Section 13(1)(e) considers emotional harm and provides that a child is in need of protection if the child is emotionally harmed by the parent's conduct.

However, emotional harm is described very narrowly, as seen in section 13(2) of the *CFCS Act*:

- (2) For the purpose of subsection (1)(e), a child is emotionally harmed if the child demonstrates severe
 - (a) anxiety,
 - (b) depression,
 - (c) withdrawal, or
 - (d) self-destructive or aggressive behaviour.

Standard 12 of the Child and Family Service Standards guides social workers to determine the most appropriate response when assessing child protection reports. It stipulates that a social worker will assess every report received about a child's need for protection, and determine the most appropriate response within five calendar days. When a child is at immediate risk of harm, the social worker refers to Standard 11, which outlines the steps to take to protect the child.

If the social worker determines that child is not at immediate risk of harm, Standard 12 requires that:

- relevant information be gathered within the timeframe appropriate to the reported circumstances
- the information gathered be used to determine the most appropriate response
- standardized assessment tools that have been developed and endorsed by leading practitioners and researchers be used to inform clinical judgement.

Once the social worker has gathered the relevant information within a maximum five-day period, Standard 12 provides the following options:

- taking no further action
- referring the family to informal and formal support services
- providing a family development response (see Glossary, pg. 67)
- conducting a child protection investigation

When the After Hours social worker received the report by phone from Victoria police on Friday, Aug. 3, 2007, this began the five-day timeframe for assessing information under Standard 12. The After Hours social worker needed to assess Christian's immediate safety and decide whether to respond over the weekend or forward the report to the ministry office for follow up on Tuesday, Aug. 7, 2007.

The After Hours social worker told the Representative's investigators that the report was assessed based on his understanding of the situation, as follows:

- Christian had not been physically abused.
- The concern of emotional harm remained paramount because Christian had been exposed to the violence of his father against his mother.
- There was a reported history of domestic violence yet the ministry had no historical records on the family.
- There had been no charges laid against the father for assault against the mother in the past.

- If the father had deliberately tried to injure the mother by crashing the vehicle, he had chosen not to harm Christian because they had dropped Christian off prior to the collision.
- There was enough evidence that the vehicle crash had been deliberate to charge the father with criminal charges.
- The father had been released by a judge into the community with a court order not to attend the home; the risk to Christian by the father was reduced.
- The police officer reported that the mother's address had been "flagged" as an address of concern of risk, so if any issue came up, the police would be immediately alerted.
- Other family members were living with the mother and Christian, which reduced the risk since they were not seen to be isolated.
- There was indication of complexities within the family that needed to be explored.

The Representative notes that the After Hours social worker's understanding was erroneous on two points: Peter did not appear before a judge but was released on bail by consent and the house was not flagged as an address of concern of risk due to an administrative error.

The After Hours social worker concluded that there was no evidence of potential for immediate physical harm to Christian. On Aug. 3, 2007, the After Hours social worker marked the report as a priority. On Aug. 6, 2007, he forwarded it to the ministry office for follow up by the child protection social workers when they returned to the office on Tuesday, Aug. 7, 2007.

The child protection team reviewed the report on Aug. 7, 2007. They used a screening tool that was created for the use of the ministry's Vancouver Island region. Its purpose is to assist staff in exploring alternatives to initiating an investigation – to determine if there are less intrusive and more community-based responses when working with families.

The tool was a general screening form used for decision making about how to respond to child protection reports. It does not list any of the risk indicators commonly found in domestic violence assessment tools. It is not designed to single out the complexities of domestic violence and its impact on children, yet decisions regarding Christian's well-being and safety were based on this assessment approach.

The team decided to collect more information before deciding how they would proceed under Standard 12. The report was assigned to a social worker who remained the only social worker assigned to the case. The social worker planned to follow the team's strategy of gathering more information. The social worker told the Representative's investigators that the approach was to meet with each of Christian's parents without pre-judging their circumstances, and to request information from the police in order to broadly consider the family's circumstances.

The social worker said that the preference was to meet with family members in person rather than over the phone, ideally in the home environment, so that the social worker could view the home and meet the child. The social worker spoke with the father several times on the phone but did not meet with him in person. The social worker planned for a home visit with the mother. At the time, the mother and Christian were in Vancouver. The mother was recovering from surgery related to the car crash injuries. The mother was not referred to a ministry worker in Vancouver nor was it suggested that she stay away from Victoria. The social worker did not consider the mother and Christian to be at risk when they were in Vancouver because they were staying with family.

Research shows that perpetrators of domestic violence can engage in manipulative and stalking behaviour. It was not reasonable to conclude that the mother and Christian were beyond the father's reach at that time. He may well have known where they were staying. If the social worker had talked to the Victoria police investigating officers, she would have learned of the officers' concern for Sunny's safety, and she may not have concluded that Sunny was safe.

The social worker decided to wait for Sunny to return to Victoria to continue the assessment and then make a decision about how to proceed. Consequently she was unable to make a determination within the five-day period stipulated in Standard 12. Instead, the social worker met with Sunny and finished the assessment 17 days after the After Hours service first received the report, and 13 days after the social worker received it.

The social worker discussed the case with the team leader before going out to Sunny's home. They reviewed the After Hours report, discussed what contacts the social worker had made at that point, the immediate safety assessment of Christian, and next steps. The Representative's investigators learned that the team leader wanted the social worker to interview Christian as part of the assessment.

The team leader stated that the child protection report was considered very serious because of reports of the father attempting to hurt or murder the mother – the actual situation of the father driving into a tree. MCFD does not commonly receive reports of that type of domestic situation. The team leader recalled that, importantly, both parents were cooperating with the ministry.

The team leader said that they were not concerned about Christian's immediate safety at that point. They would most likely offer support services to the mother, and they were seeing the circumstances through the perspective of family breakdown and possible ways the couple's separation could impact Christian.

The social worker visited the mother's home, interviewed the mother, and left the home feeling confident that the mother was willing and able to protect Christian and that he was not at risk of physical harm while in his mother's care. The decision was to offer support services as per Standard 12.

The social worker arrived at this conclusion without speaking to Christian, any other family members, the police, or other individuals who knew the family, and without conducting a risk assessment. The social worker's decision was influenced by Sunny's level of cooperation with the social worker, Sunny's stated belief that Peter would not come to the house and Sunny's engagement of a lawyer.

The Representative examined an MCFD practice audit of this office that was conducted in May 2008. This audit examined 71 family service files at this office. Fifty-six files were found to be in compliance with Standard 12, and 15 files received a non-compliance rating; 14 of these were outside of the five-day time frame requirement. It is unclear from the audit report why the time frame requirement was not met in those 14 cases.

Finding: *Better legislation, policy, standards and training are required to support social workers to accurately assess safety of children who are exposed to domestic violence.*

Danger to children in potentially lethal domestic violence cases may be mistakenly overlooked because the cases do not fit the traditional view of child abuse (because the mothers are the primary targets) or of domestic violence (because the children may be intended or unintended victims of domestic violence perpetrators) (Jaffe and Juodis, 2006).

It is apparent that if a child's mother is subject to a high lethality risk, that fact alone should be enough to demonstrate that a child living with that parent is also in need of protection. In such cases, a child-centred approach demands that workers not artificially separate a parent's safety from that of her child.

It is also important for child protection workers to recognize that their mandate is independent from that of the criminal justice system. They must not feel that they are bound by conclusions reached in other legal systems, which use different tests and legal standards. While full communication is essential, a conclusion reached in one system does not dictate the proper result in the other.

In B.C., Manitoba, Ontario, Nunavut and the Yukon, child welfare legislation does not specifically identify exposure to domestic violence as a reason for a child to be found in need of protection. Legislation in these provinces and territories contains more general provisions. This means that there is discretion around whether or not to report that a child may be in need of protection due to exposure to domestic violence, and in assessing those circumstances.

In New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Prince Edward Island, Quebec and Saskatchewan, child welfare legislation refers specifically to domestic violence as a reason a child can be found in need of protection. The language differs in each jurisdiction. For example, in New Brunswick the legislation states that if "the child is living in a situation where there is domestic violence", this is a condition of a need for protection. In Alberta the legislation provides that "exposure to domestic violence or severe domestic disharmony" can be an underlying factor in emotional harm.

There are very real advantages to having specific references to children exposed to domestic violence in legislation, policy and standards. It primes workers in the system to consider the impact of domestic violence on children, and puts a different lens on questions of safety and need for protection.

In no way is the Representative suggesting that all children exposed to domestic violence should be removed from their homes. However, the assessment of the non-offending parent's ability to protect must be placed in the context of the safety of this parent. There must be an examination of his or her capacity to make decisions in the best interest of the child while being psychologically impacted by a violent relationship and dealing with emotional ties to an aggressive partner.

Section 13 of the *CFCS Act* requires a social worker to consider emotional harm to a child as part of assessing whether the child is in need of protection. Section 13 can apply to children who are harmed by exposure to domestic violence and are not themselves physically abused. However, it draws a direct link between the parent's violence and the child's behaviours, explaining that "a child is emotionally harmed if the child demonstrates severe anxiety, depression, withdrawal, or self destructive or aggressive behaviour." This test would appear almost impossible to meet except in the most extreme cases.

Domestic violence is most commonly associated with physical violence. Yet children can experience domestic violence in a number of different ways. This includes seeing or being part of the violence, hearing violent events, being aware of the violence, and experiencing the aftermath of violence such as having an injured parent, having the police intervene, or moving to a hotel or a transition house (Edleson, 1999).

It is most appropriate to consider that children are "exposed to" rather than "witness" domestic violence, since the experience can be multi-dimensional. Exposure to violence at home is traumatizing for a child, and assessing harm or trauma to a child is complex, but essential.

In cases where a child has been exposed to domestic violence and not physically abused, a social worker needs to consider the effect that violence may have on the child: whether the child is emotionally harmed by the parent's conduct, the nature and extent of that emotional harm, and the impact of the emotional harm on the child. In B.C., social workers make this assessment under the relatively narrow legislative context of Section 13 as noted above, which says a child is emotionally harmed if that child demonstrates specific characteristics.

In the years since the drafting of the *CFCS Act* in the early 1990s, a significant amount of research has contributed to knowledge in assessing the effects of domestic violence on children. Our current understanding of the impact of exposure to domestic violence on children shows us that Section 13(1)(e) of the *CFCS Act* does not provide adequately for an interpretation by social workers in all situations. A broader perspective is needed to fully address the many ways a child can be impacted by domestic violence.

Although research firmly establishes the negative impact of exposure to domestic violence, large numbers of children who are exposed to domestic violence show no developmental problems. Studies that compared groups of children who were either exposed or not exposed to domestic violence found that, while there is a great deal of variability in children's experiences, many children exposed to domestic violence show no greater problems than children not exposed (Jaffe, Baker, & Cunningham, 2004). A 1998 study concluded that approximately 60 per cent of children show no or only mild effects (Hughes & Luke, 1998 cited in Agar, 2004).

Children's experiences vary greatly and emotional harm can be caused by many variables, many not even apparent to an assessor. Jaffe et al. (2004) point out the impact of exposure can be affected by the level of violence in each family, the degree to which the child is exposed, the co-occurrence of many other stressors to which the child is exposed, the harm the exposure produces for each child, and the level of resiliency a child and the child's environment have to violence.

In interpreting Section 13(1)(e), a social worker must establish a connection between the parent's violence and the impact on the child through – and only through – severe behaviours demonstrated by the child. Although the *CFCS Act* is clear that a child must demonstrate severe behaviours to be considered emotionally harmed, "severe" is not defined, leaving its meaning unclear. Yet even if social workers agree on a definition of severe behaviours, current research does not support measuring the severity of a child's behaviours as a way of deciding if a child is in need of protection.

The method of assessing emotional harm is a concern. Some children exposed to domestic violence are at great risk of harm, and an intervention by child protection authorities is required if they are to be safe, whereas other children benefit from other responses, such as referrals to community support services. Still others may appear to be unaffected by violence but may be at risk by a high-risk abuser. It is important to have clear criteria on how this is determined.

There is little assistance available to a social worker needing to assess a child's exposure to domestic violence. There are only a few tools developed for assessing exposure and none are found in the ministry's policy or practice framework. This may be because the tools are not yet reliable. None have been subjected to psychometric testing and there is no standard method of measuring prevalence or individual incidents of exposure (Edleson et al., 2007).

The approach currently recommended by researchers begins with caution. Research shows there is not one approach or a single strategy that can be used for all children. Child welfare professionals need to approach each family on a case-by-case basis and consider the multi-dimensional complexities of each individual child's experiences in domestic violence situations (Edleson, Johnson, & Shin, 2007).

In B.C., children have the best chance to be screened for exposure to domestic violence if they pass through a transition house (Agar, 2004). To date there are no best practices developed for assessing exposure to domestic violence and no practice standards directly addressing it in B.C. There are no agreements among service providers about how this is responded to, nor clear links for ongoing risk of harm.

Christian's exposure to domestic violence was well documented but not assessed. The social worker confirmed by talking to both of Christian's parents that he had witnessed not just verbal abuse between the couple, but actual physical violence. Both parents also told the social worker that Christian was not physically hurt during the incidents of violence.

As examples, Sunny told the Victoria police officer about Peter's threats and about Christian being continuously exposed to his parents' fights and arguments. She told the social worker that Christian witnessed his father punching her in the nose on one occasion, and on another, making threatening motions that he would kill her. She noticed that Christian, even at his young age, had taken on some of his father's aggressive behaviours.

The social worker heard from Peter about the violence witnessed by Christian, which he described as "mostly pushing". The social worker did not have the information necessary to consider whether this reflected an offender who tended to minimize the violence, which is an identified risk factor in high-risk perpetrators. Her emphasis was on maintaining neutrality and hearing from both parents in order to assess the situation.

The social worker determined that Christian was not seriously affected, but did not interview him. Sunny had told the social worker and police officer that her sister and her parents were aware of the episodes of domestic violence but the social worker did not explore this further with the family members. Without speaking to them, to other people in Christian's life, to the police or to Christian himself, it was impossible to put together a clear picture of the details of how much violence Christian had been exposed to, and how he may have been affected.

One witness expressed surprise that no supervision order had been put into place by the ministry. In that individual's extensive experience in family law in a different part of Greater Victoria, such measures are common in situations like this, even if a mother states she can protect the child. The issue of whether social class and appearance played a role in how the ministry handled this case was raised by this witness.

The ministry has not adopted a formal policy on domestic violence. There is one document available to child protection workers called *Best Practice Approaches: Child Protection and Violence Against Women* (2004), which was developed by representatives from community agencies. It is a guide for staff on violence against women and domestic violence. The ministry staff interviewed as part of the Representative's investigation said that they are familiar with the document and that they use it in their social work practice.

The document may have limited usefulness, as it does not incorporate the ministry's legislation and standards. Ministry provincial office staff stated that because it is not a mandated ministry policy, staff can choose whether or not they want to use it, and it is impossible to audit or evaluate it against any outcome measures.

The document aims to inform social workers about the complex issues and dynamics of violence against women, and the impact of that violence on women and their children. Ministry staff told the Representative's investigators that while its content is useful, it does not function well as a practice guide. It is presented in a discussion paper format and is difficult to read and apply the information in the moment.

It would be clearer also to have a document that sets out an overview of domestic violence in the child welfare field, the principles that guide the ministry's approach to domestic violence, a risk assessment tool for domestic violence cases and children, and a description of the intersection of ministry policy with policies of the criminal justice system and others.

The existing Best Practices document advances a "woman-centred" approach, and this was used by the social worker with Christian's mother. This approach takes the perspective that the safety of the child is secured through the safety of the mother. It assists the social worker in concentrating on planning for the mother's safety, focusing on the mother's strengths and identifying resiliency instead of taking an approach that blames a mother for not protecting her children from her partner's violence. Yet when social workers are working with mothers in high-risk situations, they need to look beyond this document.

Of additional concern is an absence of information about working with perpetrators of domestic violence, which is an important component of child protection social work. Social workers may be working with perpetrators who are not involved in the criminal justice system. However, the subject of offender accountability and therapeutic programs for perpetrators is not covered in the Best Practices document.

Guidance about working with children in the context of their violent parent is central to the social workers' role in child protection but is also not addressed in the document. It contains a tool for assessing the risk of repetition of relationship violence but offers no information about its use in a child protection context.

Much of the information in the document appendices is out of date. The information in the appendices needs consistent updating in order to be a useful reference document and that has not occurred.

The authors of the document were also funded by MCFD in 2006 to develop a companion curriculum to train ministry staff on domestic violence. This curriculum was completed in 2008 but to date the ministry has not identified funds for implementing this training anywhere in B.C.

Recommendation 1(a):

That MCFD propose required changes to legislation, and develop policies, standards and training to provide social workers with clear direction in assessing the safety of children who are exposed to domestic violence.

Detail:

- Legislation and policy should include children who may be at serious risk of harm due to exposure to domestic violence under the definition of a child in need of protection.
- Legislation should specifically acknowledge the increased risk to children when family violence is present.
- Policies and standards should include the use of standardized risk assessment processes to assess both the risks posed by the perpetrator and the risks to the child.
- Policies and standards should include information necessary for the development and implementation of safety plans following assessment.
- A provincial training curriculum on working with families in domestic violence situations is required.
- A training strategy is required to ensure that the new curriculum is effectively delivered to current social workers, as well as to social workers and child and youth care workers in training.

A progress update should be provided, in writing, to the Representative by April 30, 2010.

Recommendation 1(b):

That MCFD develop and implement a strategy to screen child protection reports for domestic violence issues.

A progress report should be provided, in writing to the Representative by March 1, 2010.

Recommendation 1(c):

That MCFD record and track child protection reports with domestic violence issues in order to evaluate effectiveness of safety planning and protection of children over time.

A progress report should be provided, in writing to the Representative by March 1, 2010.

Information Sharing and Collaboration

Finding: *The ministry and the police did not effectively exchange information in a timely manner.*

On May 29, 2003, Victoria police were called to Christian's parents' home. Sunny and Peter had been arguing. Sunny tried to prevent Peter from leaving the house by standing in front of the door while holding Christian. Peter pushed them out of the way and she fell down with 21-month-old Christian in her arms.

Police records state that the Victoria police made a report to the ministry about this incident, after responding to a call for help by the mother. However, there is no entry in ministry records of receiving this report.

The circumstances surrounding prior contact between police and the family is a matter of concern to the Representative.

Sunny stated that there had not been any physical violence by Peter prior to the 2003 incident. This would have been the first opportunity for the police to inform her of the community-based victim services worker. There is no indication in the police report that this happened.

The second contact with police regarding a domestic dispute was four years later, on July 19, 2007. The Oak Bay police recorded the incident as a verbal dispute with no assault. This incident was not reported to the ministry. It was reasonable in this circumstance that the police did not contact the ministry as they saw no evidence that Christian may be in need of protection. The parents were calm, and there was a plan for Sunny to take Christian to a hotel for the night.

The police officer investigating the July 2007 car crash did contact the ministry the day after Peter was released on bail. He was concerned that the release posed great risk to Sunny that in turn could put Christian at risk. He indicated that the purpose of making the call was to ensure the information was flagged on the ministry's information system in case the family came to the attention of the ministry in the future.

The After Hours social worker recorded the information as a child protection report, which required that it be further assessed to determine how the ministry would respond. The police officer did not know the call had been recorded as a child protection report. He was not expecting the ministry to become involved and had no further direct contact with the ministry.

The Victoria Police Department's policy on domestic disputes informs police officers when they need to report to child protection services. It requires that police officers report circumstances where they believe a child has been harmed or is at risk of harm. The policy is out of date. It refers to two ministries that no longer exist and it does not clearly indicate to which ministry a report should be made.

For example, reference is made throughout the section to a Ministry of Social Services child protection worker and a Ministry of Communities and Aboriginal and Women's Services (sic) child protection social worker. Since 1996, responsibility for responding to child protection reports has been with MCFD, and is now shared with some delegated Aboriginal Agencies. The Ministry of Community, Aboriginal and Women's Services was restructured and re-named in 2005.

In assessing Christian's safety, the social worker needed to consider the dynamics of his parents' circumstances and assess the family as a whole. The social worker wanted to get Peter's police records and had the options of phoning the investigating police officers directly and/or requesting the police records by fax. The ministry staff requested the records on both parents by fax, and as a result, received back much less information than was available at the time. This lack of information may have critically impacted the social worker's understanding of Christian's situation and the risks to his safety.

At the point that the social worker requested the parents' police records, the investigating Victoria police officers had already identified Peter as being high risk. They had serious concerns for the safety of Sunny and her family but this was not communicated to the social worker. These concerns included:

- the high-risk profile of Peter
- the level of concern by the police for the safety of Sunny and her family
- that police wanted to recommend holding Peter in jail pending court
- the reasons why Peter was not held in jail
- the details of the history of domestic violence
- details of Peter's background of aggressive behaviour with persons other than Sunny
- Peter's threatening behaviour that was disclosed by Sunny and her sister during interviews with the police
- the level of fear that Sunny expressed about her husband being released into the community
- the level of fear that Sunny expressed that Peter would harm her family
- the police knowledge that Sunny had limited understanding of the justice and social services systems
- the immediate safety plan that the police had developed with Sunny

The social worker requested the parents' police records on Aug. 7, 2007 and received a response from the Victoria police on Aug. 10, 2007. The social worker believed that all of the relevant information had been sent. The response contained a condensed version of the police report to Crown Counsel and a list of Peter's history with the Victoria police.

Once provided with this list of charges, the social worker had the option of requesting more detailed information about each specific item in Peter's police history. The social worker did not request these details.

The Victoria police response also recommended that the social worker contact the Oak Bay Police Department and the Westshore RCMP. This is because the Victoria police could not release records from other police jurisdictions. Ministry staff sent out these two requests one week later, on Aug. 17, 2007.

On Aug. 28, 2007, the Oak Bay police sent a response that contained Sunny's and Peter's police records. Although this provided fuller information, it did not get considered in a timely way because the social worker was on vacation and the file had not been flagged as a priority during the social worker's absence.

The Westshore RCMP provided a document to RCY investigators indicating they had contacted MCFD at the time, to advise the ministry that they could find no records relating to Sunny or Peter. However, there is no information in MCFD files of that Westshore RCMP call. During the course of this RCY investigation, Westshore RCMP did find police records for the parents, and provided them to investigators.

Victoria police had no knowledge that the ministry had followed up with Christian's parents after receiving the Aug. 3, 2007 report.

Another critical juncture for information sharing occurred right after the social worker's visit to Sunny's home. During the visit Sunny told the social worker that she did not believe her husband would come to the house because she was living with her family and she had changed the locks and alarm codes. Moreover, Peter had not tried to come to the home after he had been prohibited from doing so in his conditions of release.

This changed the next day, but the social worker was not aware of this. There were three incidents when Peter had potentially breached his bail conditions by contacting Sunny, showing up on the property, showing up at an immigration office where he knew she would be and contacting her at her lawyer's office. This troubling and frightening behaviour concerned the police and the bail supervisor enough to at least consider forwarding a warrant request to Crown Counsel concerning the breaches.

The risk was clearly escalating at this point, but MCFD was unaware. It would have been helpful for the ministry to have an open channel for timely access to this information.

Finding: *Opportunities for effective intervention were lost because the response to the circumstances of this case was not integrated or co-ordinated. There is no system of coordination of domestic violence response in this community.*

To protect children as much as possible, responses to domestic violence must be strengthened and improved. It is a serious understatement of the current reality to say that B.C. systems lack co-ordination in addressing domestic violence situations.

In the six weeks leading up to the deaths of this child and his family, their lives were touched by many public service providers, including:

- social work and medical staff in a hospital
- two municipal police departments
- one RCMP detachment
- numerous staff from MCFD and the Ministry of Public Safety and Solicitor General
- Crown Counsel
- two therapists
- two lawyers.

These individuals were not working in a coordinated model, and no one was leading or coordinating. In fact, Sunny received conflicting advice about whether or not she should try to save her marriage or stay away from Peter and her home. Even among those who supported the need for a safety plan, conflicting safety strategies were presented to her.

Better models exist in other provinces. Nova Scotia, for example, has a high-risk case coordination protocol framework that was developed as a result of recommendations contained in two reviews following deaths related to domestic violence. If such an agreement were in place in Victoria, the agencies involved with Christian's family would have taken a coordinated response. In fact, Sunny could have been made aware of many of these services as early as 2003 when she made the first call to the Victoria police.

The Nova Scotia protocol identifies the three provincial systems that intersect child welfare and criminal justice: the Department of Justice, the Public Prosecution Service and the Department of Community Services as the primary service providers in high-risk cases. It prescribes identified actions on the part of each agency from the initial point that a case is determined to be high risk, through to critical developments where risk increases and to case coordination of developments in the case.

At critical junctures of the case, the protocol requires specific identification of the role of the lead agency and others, the outcomes to be achieved, and the collaborative actions agreed on by the service providers. It includes tools for sharing information between all service providers involved in high-risk cases of domestic violence.

In Ontario, the Region of Peel also has an innovative differential framework for domestic violence. It brings a woman abuse coordinator into child welfare practices. The woman abuse coordinator is employed by the child protection authorities on a contracted or seconded basis from the community-based violence against women sector. The coordinator works with child welfare supervisors and workers to implement and monitor a differential practice model following every domestic violence report. It is a proactive and preventative model that supports and provides technical assistance to child welfare staff responding to domestic violence and children exposed to it. The coordinator brings critical in-house expertise into child welfare practices.

The position creates internal procedures for the child welfare agency to respond to domestic violence cases. The coordinator evaluates practices, policies, procedures and knowledge bases of child welfare agencies. This includes developing differential practices for plans of care for children, for intervention with abusive partners and for protection of mothers. Importantly, the position creates specialized screening and assessment tools for exposed children and their mothers, safety planning, confidentiality policies, and training for child welfare staff.

If, for example, the Nova Scotia model was in place in B.C., a critical and timely meeting of involved parties would have taken place. When Victoria police were investigating the injury of Sunny in the car crash, the social worker, police, bail supervisor, community-based domestic violence worker, and Crown prosecutor would have met – with Sunny and her parents and sister – to gain a common understanding and jointly develop a plan. They would also have jointly assessed the risk Peter posed to the family.

A coordinated inter-sectoral approach requires that one agency lead the planning, not only to work directly with the mother and children but also to advise and update other service providers, to identify the role of each agency, and to inform individuals of developments in the case and adjustments to the plan as circumstances change or the risk level shifts.

Another critical coordination issue is to ensure that Crown Counsel and the courts have all available information when charging and release decisions are being considered. As stated by Jaffe et al. (2004):

The tragically familiar conclusion of successive inquests and fatality reviews is that women and children are at risk for homicide when the criminal and family legal systems do not coordinate and share information and when the danger an abuser poses is not properly addressed.

In Christian's situation, the investigating police officers assessed the risk of harm to Sunny as very serious. They completed the report to Crown Counsel, recommending charges of aggravated assault and dangerous operation of a motor vehicle causing bodily harm. Concerned with her safety, the investigating police officers, on their initiative, met with Crown Counsel to discuss the report. The investigating police officers expressed their view that Peter posed a serious risk to Sunny and their wishes that he remain in custody pending his trial.

It is the job of Crown Counsel to approve criminal charges and make arguments in court about whether an accused person should be kept in jail or released on bail. In order for an accused to be kept in jail, Crown Counsel must make a convincing argument in court. The *Criminal Code* specifies that detention is justified on one or more of the following grounds: to ensure attendance in court, the protection or safety of the public (including witnesses or victims to an offence) and to maintain confidence in the administration of justice.

Provincial Crown Counsel policy, which took effect May 1, 2003, provides guidance to Crown in determining whether they should seek to keep the accused in jail. According to policy, if the accused presents a danger to the victim or a witness, Crown Counsel should consider seeking a detention order and a no-contact order.

The policy encourages Crown Counsel to consider the following risk factors in making a determination:

- a history of violence within or outside the relationship
- a history of breach of court orders
- threats of suicide
- escalating violence
- substance abuse
- recent relationship or employment problems
- use or threatened use of weapons or death threats, and
- extreme minimization/denial

Crown policy does not specify a formalized risk assessment instrument to be used by Crown Counsel. In assessing danger to the victim or witness, there are similarities and differences in the factors that the police and Crown Counsel consider. A standardized risk assessment instrument designed to be of use to social workers, police, and Crown Counsel would provide greater standardization and guidance in assessing potential harm to victims of domestic violence.

Bail decisions in a busy docket court may not always be fully informed by a deep understanding of the dynamics in a specific domestic violence case. In some jurisdictions, such decisions are made in domestic violence courts, where there has been prior case conferencing among police and prosecutors who specialize in and have expertise in dealing with domestic violence issues.

In British Columbia there are no specialized domestic violence courts, prosecutors or victim support workers who process these cases using expertise in safety, enforcement of orders or therapeutic measures. Nor are there specialized resources in policing. In the Victoria Police Department there is not one officer specifically dedicated to domestic violence. The Representative is encouraged by recent discussions with the Chief of the Victoria Police Department who seeks to change this as a matter of priority.

The Representative believes further work in this area would be valuable given the lack of coordinated expertise.

Recommendation 2:

That the Ministry of Public Safety and Solicitor General take the lead in a special initiative that focuses on the issue of safety of children and youth in domestic violence situations, by ensuring a coordinated, effective and responsive system in Greater Victoria and throughout British Columbia.

Detail:

This initiative will require the participation of the Ministry of Attorney General, Crown Counsel, MCFD and representatives of the RCMP and municipal police forces.

The approach should include:

- Standardized policies, standards, tools and training shared across the child welfare, criminal justice and family justice systems
- Strategies for case management and coordination of high-risk cases
- Development of risk/danger assessment tools and safety planning tools
- Provisions to ensure the system is accessible and understandable to people outside of mainstream culture and language
- Information-sharing protocols and practices designed to ensure that all service providers and decision makers have the best possible information in a timely fashion

One approach would be to develop such a process for a community like Greater Victoria, and then generalize it across the province.

Another approach would be to develop a secretariat within government, as Nova Scotia did. This approach would prevent silos of activity and multiple accountabilities from getting in the way of progress.

A progress update should be provided, in writing, to the Representative by April 30, 2010.

Safety Planning

Finding: *Better legislation, policies, standards and training are required to support social workers in making effective safety plans for children in homes where domestic violence is an issue.*

A safety plan in a domestic violence context is a practical tool, developed with the mother and other significant people in her life, which considers the risk factors and the level of danger to herself and her children. It assists the mother and service providers to work through, in advance, issues such as safety during a violent incident, safety in the home, safety related to court orders, safety at work, drug or alcohol use, and emotional health.

Safety plans identify specific events where risk may be increased, such as court dates or visits with children, and generate options to increase safety at those critical times. Components of the plan are adjusted when circumstances change, and these adjustments are communicated to all service providers involved with the family. Effective safety plans include a commitment by each service provider working with the victim and each service provider's role becomes part of the plan. This approach is most successful when one service provider or agency takes the lead and all of the service providers work together as a team.

In Christian's situation, the Victoria police officers and the social worker discussed safety issues with Sunny independent of each other. Each was unaware that the other had done so. Consequently, there was no coordination with Sunny to develop immediate or long-term safety plans, even between the two agencies directly in contact with her.

When they learned that Peter was being released from custody on Aug. 2, 2007, the police visited Sunny, who was recovering in hospital. Her mother and sister were present.

The officers recall that the sister acted as an interpreter for her mother, who did not speak English. The police officers brought a copy of Peter's bail conditions, and they discussed safety measures with Sunny. They reviewed the bail conditions, advising the family that he was prohibited from coming to their home, and that he was subject to a court order not to have any direct or indirect contact with Sunny.

The police also explained that Peter was not prohibited from contacting any other family member, including Christian. They recommended that Sunny get a new phone number and that she change the locks on the doors at the house. They also discussed the alarm system at the restaurant and at the home. The police suggested Sunny contact the alarm company to have the contracts transferred solely to her name so that her husband could not gain access to any information about the alarm codes.

Although Sunny followed through with these recommendations, it was learned after the murders that Peter managed to break into a basement window without setting off the alarm because he knew how to enter the window without activating its motion sensor.

A tool available to the police that was not discussed with Sunny is a domestic violence emergency response system. This is a portable personal alarm system that police can issue to a victim in extreme circumstances. It allows victims to send an immediate alert to police communications systems if they are in danger, or perceive a threat such as stalking behaviour. It was not clear why such a device was not provided, especially given the Victoria police officers' level of concern about her safety.

In some jurisdictions in Canada, but not in B.C., alleged offenders out on bail are monitored using electronic monitors. This strategy can help alert authorities when high-risk individuals stray from locations/areas prescribed in bail conditions. This approach requires that mobility restrictions be defined at the time bail orders are issued.

The social worker acknowledged to the Representative's investigators that it was her role to develop a safety plan with the mother. Yet she had not spoken directly with Victoria police. She was unaware of the serious level of danger Peter posed to Sunny. She did not grasp the danger of the quickly changing situation. Neither the Victoria police nor the social worker identified any risk to Sunny or Christian while they were staying with family in Vancouver between Aug. 3 and Aug. 13, 2007.

No one was dispatched to meet with Sunny in Vancouver, which would have been reasonable given that the safety plan was to stay away from Victoria. Instead, the social worker spoke with Sunny by phone about some elements of safety including whether Peter had access to Christian, the notion of adding Christian's name as a no-contact person on the bail order and of setting up supervised visits if Peter sought contact with Christian.

The social worker left development of a full safety plan until the home visit on Aug. 20, 2007. They went over what had been discussed earlier by phone. During the home visit, the social worker also advised Sunny of a number of services available in Victoria, including the Children Exposed to Domestic Violence program, the family violence counselling program, Transition House, and the Separation and Divorce Centre.

The social worker recalled that Sunny took notes during their meeting and understood she would review the list of community services with her lawyer the next day. This investigation found no evidence that this ever happened, and there was no follow-up with Sunny to see if these important connections were made. As matters unfolded, Sunny saw her lawyer two days later. It does not appear that these connections were discussed, as the primary concern of the lawyer was that the only immediate safety plan that would protect Sunny was for her to leave the family home.

There are no MCFD standards on developing safety plans in domestic violence situations. The Best Practices document has an appendix detailing the components of a personalized safety plan. It also contains the Spousal Assault Risk Assessment (SARA) checklist (see Appendix C). Ministry staff stated that they do not use the SARA checklist in their social work practice. If they, or any other service provider had completed it against the information available about Peter, they would have discovered that he likely met 15 of the 20 indicators. This information could have played a valuable role in developing a safety plan and protecting Christian.

The Ontario Domestic Assault Risk Assessment is another risk assessment tool that scores perpetrators on risk for repeated domestic violence. It is considered advantageous because it can be administered by anyone, not only clinicians or people in the criminal justice field, and it does not depend entirely on input from the victim.

In developing the tool, researchers found that the risk of assault can be predicted with high accuracy using 13 questions related to the perpetrator's history of violence and antisocial behaviour, details of the most recent assault and information of the victim's personal circumstances.

Perpetrators with higher scores on the tool meet the criteria not only for the likelihood of repeated violence but also frequency of assaults and causing more injury than those with lower scores (Mental Health Centre Penetanguishene).

The assumption that a perpetrator is not high-risk because he has been released on bail is not valid. As noted above, different parts of the legal system operate based on different criteria, legal tests and evidentiary standards.

As part of safety planning, child protection social workers can intervene with the perpetrator, focusing on such issues as accountability for his actions, stopping the abuse, compliance with court orders, or attendance at counselling programs for abusive men.

This approach requires a deeper analysis of the social causes of domestic violence and the underlying dynamics of it such as gender power imbalances. Peter was central to the domestic violence situation but was not included in any assessment or safety plan because neither MCFD nor the justice system is institutionally organized to intervene effectively with male perpetrators of violence.

Justice system procedures, such as the decision-making process in bail decisions, are not necessarily structured with the degree of expertise required to assess harm and support safety. Domestic violence is different from most other crimes because the victim has an ongoing relationship with the offender, they may have children in common, they often own property together, and there may be an economic dependency and cultural and religious pressures to remain in the relationship.

The *Family Relations Act* provides the basis for decision-making about such issues as child custody and access. It has no provisions with respect to family violence, or about how in situations where family violence is an issue, different factors or procedures may be required to ensure the safety of children.

The criminal courts also don't provide for the specific issues raised by domestic violence. Safety of children and their mothers is much enhanced when specialized knowledge and expertise is brought to bear as a matter of course in such cases. For example, a higher level of knowledge about offenders and the dynamics of family violence is likely to have an impact on charging decisions, bail decisions, and orders with respect to contact and access. Specialized expertise such as police officers who are domestic violence experts and who will follow up on and support investigations of serious domestic violence cases, specialist social workers who are able to work effectively with the police, counsel and the courts, and training for judges and justices of the peace can all contribute to better safety.

Although these issues are partly addressed by Recommendation 2, attention must also be paid to the legal and policy framework within which decisions are made.

Recommendation 3:

That the Ministry of Attorney General undertake a review and enact necessary changes to improve the administration of justice in criminal matters involving domestic violence, including establishment of domestic violence courts, to better protect the safety of children and their mothers.

Detail:

The following should be considered:

- Domestic violence courts, domestic violence treatment options, and similar mechanisms can improve decision-making by bringing specialized expertise and processes to bear.
- Strengthening access to protective orders for victims, including children, improving enforcement of orders and increasing penalties when they are breached.
- Providing for electronic monitoring of alleged offenders on bail supervision when they pose a risk of violence to children and their mothers.

A written status update should be provided to the Representative by April 1, 2010.

Recommendation 4:

That the Ministry of Attorney General undertake a review and enact necessary changes to improve administration of justice in family law matters in domestic violence cases, to better protect the safety of children and their mothers, and to ensure that the perspective of the child is considered.

Detail:

The following should be considered:

- Amendments to the *Family Relations Act* to define domestic violence, and to specify how knowledge of domestic violence impacts other provisions under the Act can strengthen timely and supportive decision making for victims and their children.

A written status update should be provided to the Representative by April 1, 2010.

Finding: *Overall, MCFD staff demonstrated limited knowledge and understanding about bail orders and other types of court orders that can be used as part of a safety plan.*

Between Aug. 2 and Aug. 24, 2007, Sunny was advised no fewer than 10 times to get Christian's name added as a no-contact person on Peter's conditions of bail. This advice came from a number of different professionals.

The Representative's investigators learned that Sunny was trying to understand how her husband was prohibited from having contact with her but was allowed to see his son. In practical terms, how would this work?

There are no supervised access programs in Victoria for children who are not in the ministry's care, and none of the service providers interviewed during the investigation saw it as their role to assist either parent with Peter's access to Christian. Instead they referred each parent to legal counsel and family court. Yet even if a referral had come before the family court, the *Family Relations Act* does not provide a definition of domestic violence, or a context for interpreting domestic violence incidents in the context of gender imbalances and power-based crimes (BC Association of Specialized Victim Assistance and Counselling Programs).

Moreover, MCFD staff said they advised Sunny to pursue adding Christian's name as a no-contact person even though they knew it would probably not happen. They stated they were aware that a parent cannot simply request that a court order be varied to include a child's name as a no-contact person, and they did not believe they had evidence to show a court that Christian was at risk or that the mother was unable to protect him. They suggested it to Sunny anyway, with a stated purpose to either "get it on the record" or to try anyway despite knowing that it was unlikely to be a successful strategy.

Despite suggesting several times to Sunny to have Christian's name added to the no-contact bail conditions, the MCFD social worker, when consulted by the bail supervisor about whether Christian's name should be added to the no-contact bail condition, replied that she first needed to meet with Sunny and get more information in order to assess the child's safety.

Two B.C. statutes have provisions with respect to court orders that can be used to address the protection of children against the possibility of domestic violence: the *Family Relations Act*; and the *Child, Family and Community Service Act*. One federal statute, the Criminal Code of Canada, also comes into play. These are detailed in Appendix D.

Peter had been charged under the *Criminal Code* after the car crash and was released on bail with conditions that prohibited him from contacting his wife or going to her restaurant or home. The no-contact condition was not extended to Christian as Crown Counsel concluded that there were no legal grounds to do so.

If the ministry had concluded that Christian was at risk of injury or harm by his father, or that his mother was unable to protect him, as defined under Section 13 of the *CFCS Act*, the social worker and the team leader could have applied to the court for a protection intervention order against Christian's father.

While a useful tool, court orders are not effective by themselves as a means of keeping a child safe. They are best used as part of a comprehensive safety plan which takes into account the specific circumstances of a particular case.

Research indicates that in Canada, 25 per cent of women with orders against a violent partner reported breaches of the orders. Another study in Boston found that 62 per cent of women with protection orders reported that their partners violated the order; and nine per cent indicated that the breach resulted in physical assault. Women interviewed in Winnipeg indicated that if the violation was a phone call or a letter they often did not bother contacting the police; they were most likely to report to police if the violation included physical assault (Ursel, Tutty, & Lemaistre, 2008).

The issue of proper and effective use of protection orders as part of a safety plan can be effectively addressed by the recommendation made elsewhere in this report with respect to developing a coordinated approach to assessing and responding to domestic violence situations involving children and youth (see Recommendation 2).

This requires attention as it is not easy to obtain protective orders. These orders are essential protective tools, but not meaningful if they are not accessible, integrated into safety planning, and carrying meaningful consequences for breaches.

Services to Immigrant Women

Finding: *The ministry did not address Sunny Park's special circumstances as an immigrant woman in its assessment of this case.*

Domestic violence occurs throughout the world and it cuts across social, cultural, economic and religious lines. Immigrant women who are abused by their partners have needs particular to their experiences as newcomers to the Canadian social service systems and justice systems.

Sunny had immigrated to Canada from Korea less than a decade before her death. She owned a home in an affluent neighbourhood and managed a restaurant. Christian was registered in a private school and in a private learning enhancement program during the summer. Sunny appeared to be established and well-connected. One witness even referred to her as a "powerhouse".

Yet these appearances were not the whole story. Sunny related to police that she was dependent on her husband for her understanding of how the system of services worked in Canada. She described how this dependency had adversely affected her well-being. She told the police that she had difficulty speaking English when the police were called to their residence for domestic disturbances because she felt nervous talking to the police. She said that her husband had a better command of English than she did and he was manipulative with the police, which she found frustrating. She told the police that she was more comfortable and expressive speaking Korean than English.

The immigration status of a domestic violence victim is also an important aspect of assessing a family's circumstances. The Representative's investigation was not able to establish whether Sunny was sponsored by Peter. If an immigrant woman has been sponsored by her partner, her right to stay in Canada may be dependent on her relationship with him. She may fear deportation if the sponsorship breaks down. An abusive partner may use the woman's immigration status against her; that is, threaten deportation if she reports the abuse to authorities. Often, the woman lacks information about her rights and options. The social worker stated during the Representative's investigation that Sunny's immigration status and history did not form part of the ministry's assessment of the family circumstances.

It is difficult for any abused person to talk to a stranger about abuse. Limited language proficiency makes things worse. A perpetrator of domestic violence can use limited language proficiency as a way of controlling behaviour. Without the availability of someone who can speak the language of an immigrant woman, a program or service will not be able to meet its goals of doing all it can to assist her. Neither the Victoria police nor the social worker made use of interpreters during their interviews with the mother. It is important to note that an immigrant's ability to speak with reasonable clarity in a comfortable social setting does not automatically translate to the kind of clarity necessary when speaking with police or social workers in stressful situations, where precision is extremely important.

In 2007 the Justice Institute of British Columbia researched the experiences of immigrant and refugee women specific to domestic violence, interviewing 75 immigrant women who had been victims of domestic violence in B.C. Many of the women stated that even if they are able to speak an adequate level of English, when they felt upset their ability to comprehend or speak English was compromised.

The provision of interpreters and creation of an environment where victims can communicate in their first language is more than a matter of respect for cultural differences. Immigrant women who had been victims of domestic violence reported that it was important – even critical – to express themselves in their own language when discussing the nuances and emotional impact of their experiences (Justice Institute of B.C., 2007).

With this in mind, the social worker may have gathered a more thorough assessment of the mother's situation by engaging the services of an interpreter during the home visit. In addition, the views of the grandparents, who did not speak English, could not be explored by the Oak Bay police following the domestic dispute call, by the Victoria police following the car collision, or by the social worker during the home visit. The grandparents may have had crucial information to share and they were the persons immediately caring for Sunny and Christian.

Women who are victims of violence need information about the nature and dynamics of domestic violence in order to take steps to keep themselves safe. It may be difficult for immigrant women who are experiencing domestic violence to seek and obtain help due to a lack of familiarity with the social services system. An immigrant woman may be uninformed about options available to her or may find it unimaginable that police or other authorities are intervening on her behalf (Runner, Yoshihama, & Novick, 2009).

An immigrant woman may not be aware of her legal rights in Canada. She may not know that domestic violence falls within the criminal justice system, as well as the family law and child welfare systems. She may fear being treated with discrimination or insensitivity, both for herself and her children. Service providers may lack socio-cultural understanding of the immigrant family's experiences or may lack the ability to work in culturally competent ways. Service providers may have discriminatory or insensitive attitudes toward immigrants (Henry, Tator, Marttis, & Rees, 1995).

An abused immigrant woman may experience social isolation both within her cultural community and within the dominant Canadian culture. This may be exacerbated by the stresses of settling in a new country combined with language proficiency. A victim from a small community of immigrants may worry that if she leaves the abuser, she will have no safe place to go and will lose connection to her entire community. The Representative's investigation concluded that all those providing protection, including social workers, need to do more to consider a mother's unique needs as an immigrant woman in her situation of domestic violence.

There is no ministry policy on working with immigrant families. The Best Practices document includes an appendix that briefly describes some of the dynamics of domestic violence specific to immigrant women. It addresses the risk of deportation when abused women are under sponsorship from the abuser and it provides information about accessing legal services and employment authorizations. It falls short in outlining critical information for social workers regarding the multiplicity of dynamics and needs specific to immigrant women and domestic violence that is important in assessing risk and developing safety plans. Also, the appendix needs consistent updating, which is not happening.

According to the Justice Institute of BC report (2007), the service delivery model that is most empowering for immigrant women is having one key worker or agency providing services either through direct service provision or by "brokering" services. The pivotal role played by the key agency or worker is to ensure that all factors are considered, including child well-being, familiarity with social infrastructure, language needs, and social isolation. The model identifies the importance of having one key person dedicated to assist and advocate for the family.

Recommendation 5:

That MCFD strengthen services to immigrant women in circumstances of domestic violence.

Detail:

- Specify circumstances in which interpreters should be involved.
- Involve key workers from immigrant communities in providing services.
- Develop a staff education strategy about domestic violence in immigrant communities.
- Identify cultural and linguistic barriers and strategies to address these to keep victims safe.

A progress update should be provided, in writing, to the Representative by March 1, 2010, and improvements implemented by June 30, 2010.

Conclusion

Domestic violence is a sad reality in B.C., as it is in all jurisdictions. It harms the development of children exposed to it and, in cases such as this, places them at risk of lethal violence by a family member. Exposure to domestic violence also poses a clear risk of future anti-social behaviour for those children as they become adults.

There is no coherent policy framework for responding to domestic violence in B.C. and children exposed to violence are not adequately supported. A more effective system is required to support victims of violence. This will be best achieved if there is a lead agency with authority, accountability and understanding.

Our society expresses its abhorrence of violence through systems to provide peaceful means to support victims and children. The criminal law, child welfare and family law systems are there for the timely and non-violent settlement of conflict. These are only effective if there are common definitions, alignment of tools, and a real systemic response, with timely, easily accessible and consistent supports across B.C. to keep victims safe. It is too easy to blame one aspect of the system for falling down when none of it is integrated, supportive and proven effective.

A systemic response must include protective orders with real enforcement, emergency contact systems for victims, and programs and supports for children who are exposed to violence to end the cycle and support positive development. It must bring specialized resources to ensure that decision making is based on a deep understanding of the dynamics of domestic violence. No such system exists at present throughout B.C. Today, we have a fractured, episodic approach lacking direction, common definitions, shared practices and common objectives.

Although work must be done in law reform, policies and front-line service to change this, the Representative believes the key ingredient for success is political will. It can be done, it has been done elsewhere and it should be done immediately. British Columbia does not lead the country in this area, and we need to catch up to others.

Let us return to the focus of this investigation. A child died. Sadly, the Representative will be investigating other child deaths which were the result of homicidal violence by a parent. There are currently four more such deaths in various stages of the Representative's review and investigation processes. It is not known what conclusions will be drawn following their completion, and they should not be pre-judged. Nevertheless, the fact that they are before the Representative for review speaks to the need for immediate action to address the issue of domestic violence and children. These children can be victims of lethal violence in the context of domestic violence. They can also be victims of family violence with non-lethal results, with significant destructive and harmful effects.

Christian Lee's death may have been prevented had there been a system with consistent tools, and trained and coordinated front line staff cognizant of the impact of his exposure to violence, of the high risk of harm to himself and his mother, and of the need for quick response. Effective coordinated intervention was required to protect him by properly planning for his safety and security.

Did we fail this child? The Representative has grappled with this difficult question. There is only one conclusion. The tremendous risk of harm to Christian was not fully appreciated by those who were in positions of authority because the necessary structural components to do the work of assessing and protecting were not in place. Yes, we failed Christian.

The Representative reflects that in Sunny's injured state as a victim, she had a sea of faces passing before her, performing different roles. These individuals were not working together or even talking to each other. Sunny was not knowledgeable about the various systems and perhaps assumed these people were all working in concert. Despite language barriers, Sunny confided a history of escalating violence and abuse. Despite her desperate dread that she would be murdered, responsibility for her safety plan was placed solely on her shoulders. Her worst fears became reality.

When a child dies, parents or family members are usually left to mourn, and to carry on the child's memory. In Christian's tragic case, no parents or siblings survive to honour his short life. Instead, on occasion, some teachers and classmates in the Grade 3 class he should be in today may remember his gentle smile and helpful ways. Saddened neighbours walking past what used to be his family home will, instead of remembering a boy with big brown eyes, recall the grisly details of his death. Those of us who didn't know Christian have an added responsibility – to not only remember him but to also honour his memory through change, by improving the way we support and protect children living with domestic violence.



Glossary

After Hours office: the Ministry of Children and Family Development office that receives and responds to child protection reports outside of regular business hours.

Child Protection Social Worker: collects information, responds to child protection reports, conducts child protection investigations, removes children, attends court, works with families, and plans for the return of children or for continuing custody.

Community Services Manager: within a given geographical area, performs a variety of management functions: supervision, consultation, advice and support to team leaders regarding the planning and delivery of child welfare services. This includes youth justice, child and youth mental health, child protection and family services. Also provides administrative management functions such as contract, budget and human resource management.

Child protection investigation: a process of inquiring into or tracing through inquiry, collection of information and interviews with parents, teachers, daycare providers, public health nurses, physicians, and extended family members to determine whether a child is in need of protection.

Child protection report: a report received about a child's need for protection due to abuse or neglect. Reports are assessed pursuant to sections 13 and 14 of the *CFCS Act*. A response includes taking no further action, referring the family to support services, providing a family development response, providing a youth response (if the child is a youth), or conducting a child protection investigation.

Community-based victim services: contracted services funded by the Ministry of Public Safety and Solicitor General. Programs are located in community agencies and support all victims of power-based crimes. Services include emotional support, justice system support, liaison services, and referrals.

Domestic Violence Courts: courts that are dedicated to domestic violence cases and have the underlying principles of increased safety for victims, early intervention for low-risk offenders, vigorous prosecution for serious and/or repeat offenders, commitment to rehabilitation and treatment, and coordinated systems response.

Family development response: an approach to child protection reports when, according to an assessment, the risk of harm can be managed through the provision of intensive, time-limited support services. It includes a strengths-based assessment of the family's capacity to safely care for a child, and provision of support services, instead of a child protection investigation.

Intake: a process by which child protection reports and requests for service are introduced into a ministry office. These reports and requests for service are discussed at intake meetings and are assigned to social workers for follow up.

Power-based crimes: crimes related to violence in relationships, sexual assault, criminal harassment, child abuse/assault, adult survivors of childhood abuse, and children exposed to family violence.

Team leader: a supervisor of a team of social workers.

Appendix A: Representative for Children and Youth Act

Section 12 of the *Representative for Children and Youth Act* (2006) authorizes the Representative for Children and Youth to conduct reviews of critical injuries and deaths of children in care or receiving services from the Ministry of Children and Family Development. Section 15 authorizes the establishment of a Multidisciplinary Team to provide advice respecting reviews and investigations.

Investigations of critical injuries and deaths

- 12 (1) The representative may investigate the critical injury or death of a child if, after the completion of a review of the critical injury or death of the child under section 11, the representative determines that
- (a) the reviewable service or the policies or practices of the ministry or other public body responsible for the provision of the reviewable service may have contributed to the critical injury or death, and
 - (b) the critical injury or death
 - (i) was, or may have been, due to one or more of the circumstances set out in section 13 (1) of the *Child, Family and Community Service Act*,
 - (ii) occurred, in the opinion of the representative, in unusual or suspicious circumstances, or
 - (iii) was, or may have been, self-inflicted or inflicted by another person.
- (2) The standing committee may refer to the representative for investigation the critical injury or death of a child.
- (3) After receiving a referral under subsection (2), the representative
- (a) may investigate the critical injury or death of the child, and
 - (b) if the representative decides not to investigate, must provide to the standing committee a report of the reasons the representative did not investigate.

Appendix B: MCFD Internal File Review

File Review Report Child Not In Care

Name:	Christian Thomas Lee
Date of Birth:	August 06, 2001
Date of Death:	September 4, 2007
Legal Status:	Not in care
Aboriginal:	No
Region:	Vancouver Island
Fatality Type:	Stabbing
Methodology:	<p>This case review contains information from the following source documents:</p> <ul style="list-style-type: none"> • Family Service File for Sunny Park Yong Sun • Coroner's Kimble report • Reportable Circumstance Report for Christian Lee. <p>This review references the following source documents:</p> <ul style="list-style-type: none"> • The British Columbia Risk Assessment Model (1996) • Best Practices Approach: Child Protection and Violence Against Women (May 2004) • The Risk Assessment Model for Child Protection in British Columbia (1997)
<p>A. Circumstances</p> <p>The police called the Director on September 4, 2007 seeking the names and ages of any children in the Lee/Park Yong Sun family home. They indicated that Peter Lee had barricaded himself inside with two bodies and that a female had called them during the incident and was believed to be one of the victims. The emergency response team eventually forced entry into the house where they found five people deceased, including Christian and his parents.</p> <p>Information provided by the attending Coroner, on the morning of September 4, 2007, indicated Christian Thomas Lee's body was found near the master bedroom next to a female body. An adult male, believed to be the assailant and Christian's father, was lying across Christian's body. There were obvious incised wounds.</p>	

B. Family Information		
Child:	LEE, CHRISTIAN THOMAS	2001Aug06
Mother:	PARK YONG SUN, SUNNY	1974SEP02
Father:	LEE, PETER HYUN JOON	1968OCT14
Grandmother:	(name deleted due to confidentiality)	Unknown DOB
Grandfather:	(name deleted due to confidentiality)	Unknown DOB
C. Context		
<p>Christian's death precipitated this File Review and has been prompted by the significant public profile associated with the nature of the family's deaths on September 4, 2007. The objectives of this case review are to examine the apparent practice, at an individual case level and at a systemic level, as it relates to Christian's family and community circumstances.</p>		
The Scope of the File Review		
<p>This file review will examine the ministry files related to the child and his parents and all other relevant documents and records from August 3, 2007 to the time of their deaths. The review will give particular attention to the planning and decision making from the Director's involvement, and will identify practice strengths and areas for improvement. The review is limited to an examination of file documentation and does not result in findings.</p>		
D. Chronology and Analysis		
<p>The Lee/Park Yong Sun family had lived in several communities in Victoria including Oak Bay, James Bay, Westshore, and Victoria proper but had only one intake with the Ministry. They became known to the Director on August 6, 2007 when the Victoria City Police reported a long history of domestic violence.</p>		

Intake #1: August 6, 2007 – Refer to Community Agency

On August 6, 2007 the Victoria City Police reported to MCFD Afterhours that they had charged Peter Lee with unlawful confinement and assault causing bodily harm to his wife, Sunny Park Yong Sun. Police information indicates that on July 31, 2007, after the couple had dropped off their 6 year old son, Christian to a program, the couple had a heated argument. Peter intentionally drove their vehicle into a hydro pole resulting in Sunny sustaining a broken right arm, lacerations and bruising to her nose and abrasions on the lower part of her legs. There was a history of domestic violence and Sunny was seeking a divorce. On August 2, 2007 Peter had been released with a no contact order regarding his wife, home and business. All of the couple's financial assets, including their business, were signed over to Sunny and Peter was noted by the police to have no job, no home and to be destitute. Peter was a reservist with the Fleet Diving Unit for the Navy. The police suggested that Peter would want access to his son, Christian.

On August 7, 2007 the intake was assigned to the Social Worker who consulted with the Acting Team Leader. The plan was to assess the report in order to determine the need for service. The file indicates that at some point a decision was made not to investigate, but to refer the family to a community agency. A request for information was sent to the Victoria Police Detachment regarding Sunny and Peter. The Social Worker called Sunny Park Yong Sun who said that she was staying in Vancouver with family and felt safe. She was seeking a divorce, wanting help to sell the house and had spoken with someone from a transition house. Sunny briefly reviewed the events of the accident and said that Peter had been beating her up for the past 7 years. The Social Worker advised Sunny to place Christian's name on the no contact order. Sunny was returning to Victoria in less than a week and agreed to meet with the Social Worker at that time.

On August 10, 2007 the Victoria Police Department (VPD) sent a facsimile to the Ministry office containing 9 police contacts with the family. These were listed on the intake. The VPD suggested that the Oak Bay and Westshore Police Departments also be contacted which was done the following week.

The Social Worker received an email from Peter's Probation Officer offering to send a copy of Peter's bail order and it arrived on August 15, 2007 with his 8 conditions attached. His charges were dangerous driving causing bodily harm, aggravated assault and unlawfully causing bodily harm. Court was set for August 29, 2007.

Peter's Probation Officer sent an email on August 16, 2007 advising that Sunny had requested to have Christian's name included on the no contact order.

The Social Worker spoke with Peter Lee on August 16, 2007. He said that the allegations regarding the car accident were false and he denied the year old unlawful confinement charges. Twice he expressed a desire to see Christian and was advised to speak with a lawyer. The terms of the no contact order were reviewed by the Social Worker and twice Peter agreed to abide by them. Peter said that Sunny wrote a letter giving Peter custody of Christian if they divorced but he did not know where to find the letter. Peter also stated that Sunny had a "huge drinking problem", like her sister and father. He admitted that he and Sunny had pushed each other and there was verbal abuse. He acknowledged that Christian should not be exposed to domestic violence.

The Social Worker attended the family home on August 20, 2007 to interview Sunny and observe Christian. During this interview, Sunny revealed that there had been ongoing arguments between her and Peter. The day before the car accident, they were discussing a divorce. Peter asked her to reconsider her decision when they were in the car the following day. When Sunny confirmed she was sure about the divorce, Peter said, "I'm sorry" and drove into the post. The Social Worker questioned whether there was a history of domestic violence. Sunny related a few incidents in which Peter was violent and threatening. Peter pushed her when she was holding Christian as an infant and she fell holding him. Peter had punched her in the nose when he was driving and Christian was in the back seat. She got a nose bleed but did not report the incident. Sunny further reported that Peter had a bad temper and broke chairs and desks which was observed by Sunny's father and Christian. Sunny's sister and Christian also witnessed Peter threaten to kill Sunny while making stabbing motions with a knife. Sunny indicated she could not recall the specific dates of these incidences, only that they happened quite recently. The Social Worker learned that Christian had not been physically abused by Peter. However, Peter used to bite Christian in play until Christian asked him to stop about a year or two earlier. Peter would yell at Christian.

When asked about Peter's history, Sunny indicated Peter attended gambling treatment in 2004 and had stopped drinking and gambling at that time. Sunny was asked about her own alcohol use and she reported she would drink socially, 3 or 4 beers maximum. She also stated that neither she nor Peter used drugs.

When asked about her future plans, Sunny indicated that she was seeking a new lawyer and would be contacting a psychologist and a family violence support service. The Social Worker explained her role and the safety plan was further developed to include adding Christian to the restraining order, allowing only supervised visits for Peter with Christian and contacting the Separation and Divorce Centre. Sunny stated she wanted full custody of Christian; otherwise, she would give him to Peter. Sunny was advised that the Director would step in to protect Christian if she gave full custody of Christian to Peter. She agreed to call 911 and/or the Ministry helpline if Peter arrived at the home. She said that she felt safe as Peter had not come to the home and her relatives were staying with her. There was also a security system in the home.

Both Peter and Sunny called on August 21, 2007 to clarify the Director's plan regarding Christian's custody. Peter's lawyer also called on August 24, 2007 to further clarify the Director's position if Peter received full custody of Christian. This was the Director's last contact with this family.

On August 28, 2007 in response to the Social Worker's request, the Oak Bay Police Department sent the Department's records of involvement with Peter including a cover letter. The Social Worker was on holidays when the information arrived and did not see it until her return, September 4, 2007. The file indicates that the Social Worker had also requested records from the Westshore Police Department, but there is no record of a response from that Department.

Analysis:

Although the only intake in this file was coded as a "Referral to Community Services", the actions taken were consistent with an investigation; all of the required steps of an investigation were completed except an interview of Christian who was observed during a home visit. Collaterals were contacted as the worker was diligent in requesting criminal record information about Peter Lee from civilian police forces. The Victoria Police Department responded but unfortunately, one detachment did not respond and the other sent information in a letter dated August 28, 2007. The social worker did not see this response until she returned from holidays September 4, 2007. This information may have led to greater attention to the results of the court day of August 29, 2007 when the driving incident was being addressed. As Peter was a member of the Naval Reserves it may have been useful to contact the Military Police for a history of their involvement with the family, as this can be done when a serving member of the Armed Forces is involved in an intake. However the Social Worker was not aware of this fact until after the child's death. Considering the severity of the incident that brought this file to the Director's attention and the long history of domestic violence as reported by the Victoria City Police, the code of investigation may have been better suited to this intake.

The social worker also interviewed the parents and documented observations of Christian during a home visit. The style and depth of the face to face interview with Sunny was investigative in nature. The telephone interview of Peter was again investigative. The social worker allowed Peter to express his concerns and then reviewed Peter's bail terms which were part of the safety plan for Christian. Interviewing Peter by telephone was a safe decision for the worker and the decision to interview Peter and Sunny separately was sound.

The documentation, development of a safety plan and other actions taken in this intake are consistent with an investigation. It appears that the social worker went beyond assessing the report, and moved to an actual investigation.

<p>As the document <i>Best Approaches: Child Protection and Violence Against Women</i> indicates "[v]iolence towards the mother frequently escalates during intervention, separation and/or court proceedings." All of these factors were in play for the Lee/Park Yong Sun family. A victim of violence cannot gauge the assailant's emotions or whereabouts when they are separated. The <i>Best Approaches</i> document suggests that the mother and child reside somewhere unknown to the abuser. Sunny and Christian returned to their family home which had an alarm system. Sunny's assessment of her and Christian's security was based on the fact that Peter had not attended the home and there were three other adult relatives living with her. Sunny could not know Peter's mental or emotional state because of the separation and thus, could not predict Peter's behaviour. The Social Worker however, did review a safety plan with Sunny and who she should contact as recommended in the <i>Best Approaches</i> document.</p>	
<p>Status of Reviews/Investigations:</p>	
<p>Full Review:</p>	<p>Not applicable</p>
<p>Police:</p>	<p>Completed</p>
<p>Coroner:</p>	
<p>F. Summary</p> <p>There was only one intake on the Lee/Park Yong Sun family which was less than a month old at the time of the family's deaths. The intake was generated from a report of domestic violence by the police. The family members were later killed by the father and he committed suicide afterwards. There was a lengthy history of involvement with the local police and several court hearings pending, including an application for divorce. The Social Worker was only advised of police involvement when the incident had escalated to the point where the father injured the mother by deliberately driving their vehicle into a power pole less than a month before the murders. The Social Worker took a supportive role with Sunny Park Yong Sun as she was taking appropriate steps to protect herself and her son. The Social Worker was concerned that Sunny would give Christian to his father if they were granted joint custody. Sunny was, however, requesting full custody of their son and understood the Social Worker would not agree to Peter having full custody of Christian. Despite a safety plan and Peter's agreement to abide by the restraining order, Peter killed his family and himself as well as two of his in-laws.</p> <p>Although this intake was coded as a referral to community, the approach taken was consistent with an investigation. The only step missed in an investigation was an interview of Christian and he was observed. Regardless of the coding, it would not have had any bearing on the safety planning by the worker or the end result of this tragedy. If the local police had advised the Social Worker of their past involvements when they were occurring, the decision about how to respond and whether protective services were required would have been based on more thorough and accurate information.</p>	

This file exhibits examples of thorough practice such as contacting the local police detachments for their past involvement with the Lee/Park family. The Social Worker conducted an in person interview of Sunny Park Yong Sun in her home and documented descriptive observations of Christian. The Social Worker also thoroughly reviewed a safety plan with Sunny and reviewed all of the terms of the restraining order for Peter with him.

Practice could be strengthened by coding serious domestic violence situations as investigations, rather than support files. If the local police detachments contacted the Director following all domestic situations to which children may be exposed, a more comprehensive understanding of a family's history could be gained.

Recommendations:

1. The Victoria City Police and Ministry offices in the Victoria will develop a more co-operative and integrated response to domestic violence incidents. *Strategy:* The Community Services Manager will arrange a meeting by February 29, 2008 with the Victoria City Chief of Police to discuss protocols and strategies for working together in domestic violence cases.
2. The Ministry's practice guidelines for domestic violence cases will be promoted amongst social work staff in the Greater Victoria Area. *Strategy:* The Community Services Manager will distribute the document: "Best Approaches: Child Protection and Violence Against Women" to team leaders in the South Island by February 29, 2008.
3. The Victoria Child Protection Services Team (KPF) will review best practice guidelines in domestic violence cases including assessing the appropriate response to child protection reports in these cases. *Strategy:* The CFD Consultant for the South Island will give a presentation to the team on the guidelines in "Best Approaches: Child Protection and Violence Against Women" and offer the same to other teams in the South Island by March 31, 2008.

MCFD staff names, titles and signatures have been omitted to protect confidentiality.

Appendix C: Spousal Assault Risk Assessment (SARA)

This is a clinical checklist of risk factors for spousal assault developed by the British Columbia Institute Against Family Violence. It is an assessment guide or checklist comprising 20 individual items identified as risk factors.

The 20 items included in the Spousal Assault Risk Assessment are:

Offender Criminal History

- Past assault of family members
- Past assault of strangers or acquaintances
- Past violations of conditional release or community supervision

Offender Psychosocial Adjustment

- Recent relationship problems
- Recent employment problems
- Victim of an/or witness to family violence as a child or adolescent
- Recent substance abuse/dependence
- Recent suicidal or homicidal ideation/intent
- Recent psychotic and/or manic symptoms
- Personality disorder with anger, impulsiveness, or behavioural instability

Offender Spousal Assault History

- Past physical assault
- Past sexual assault/sexual jealousy
- Past use of weapons and/or credible threats of death
- Recent escalation in frequency or severity of assault
- Past violation of "no contact" orders
- Extreme minimization or denial of spousal assault history
- Attitudes that support or condone spousal assault

Offender Alleged (Current) Offence

- Severe and/or sexual assault
- Use of weapons and/or credible threats of death
- Violation of "no contact" order

Appendix D: Descriptions of Court Orders Used in Domestic Violence

Under the *Criminal Code*, peace bonds and no contact orders are attached to judicial release and sentences, and are the main mechanisms by which children can be afforded protection.

Peace Bonds

Section 810 of the *Criminal Code* authorizes a justice of the peace or a provincial court judge to require an individual to enter into a peace bond, also known as an 810 recognizance, when reasonable grounds exist to believe that the individual will cause injury to or damage the property of another person or his/her spouse or child. A peace bond, at a minimum, requires an individual to keep the peace and be of good behaviour, with or without sureties, for a period of 12 months. A provincial court judge or justice of the peace may add the following conditions to a peace bond:

- A prohibition on possessing firearms, weapons, ammunition and explosives
- Non-attendance at specified locations i.e., places frequented by a child such as home, school, recreational venues
- Non-communication with the person who fears for his/her safety and/or that person's spouse or child

Bail/Release Orders and Sentences

No contact provisions can be attached to bail/release orders and to sentences. Unlike in a peace bond, an individual has to be charged with or convicted of a criminal offence to receive bail/release orders. Most relevant to the protection of children include conditions to abstain from communicating with specified individuals, to refrain from going to any place specified in the order, or any other condition that the judge considers necessary to protect a victim, witness or other identified vulnerable person.

In the civil context, the *Family Relations Act* (FRA) and the *Child, Family and Community Service Act* (CFCSA), both authorize various protection orders in relation to children.

Family Relations Act

Under the FRA, there are three mechanisms that may provide protection to children in circumstances of domestic violence: a restraining order, an order prohibiting interference with a child, and an order restricting access to a premise occupied by a child. Unlike the *Criminal Code*, orders under the FRA are not available at large but are restricted to a relationship dealt with under the FRA, namely a parent and a spouse.

Child, Family and Community Service Act

The CFCSA provides Section 28 which authorizes the court to grant a protection intervention order if there are reasonable grounds to believe that contact between a child and another person would cause the child to need protection as defined under s. 13(1)(a) to (e) or (i) of the CFCSA.

Subsections 98(1)(a)(b) of the CFCSA authorize the court to grant a restraining order if there are reasonable grounds to believe that a person has encouraged, helped, inveigled or coerced a child in care, a child in the custody of a person under a temporary custody order, or a youth on a youth agreement to engage in prostitution.

Appendix E: Documents Reviewed during the Representative's Investigation

Ministry of Children and Family Development Records

- Sunny Park's family service file
- Reportable circumstances report
- File review report
- Integrated Practice Analysis Tracking System regarding implementation of file review recommendations
- Director's case practice audit report, Vancouver Island Region, Esquimalt/Victoria/Saanich Intake and Family Services Team 2 [Jutland Road Office] May 30, 2008

Ministry of Children and Family Development Policy and Standards

- The Risk Assessment Model for Child Protection in British Columbia, 1996
- Child and Family Development Service Standards, Nov. 2003
- Family Development Response or Investigation, Determining the Most Appropriate Response to Child Protection Reports, Dec. 2004
- Best Practice Approaches, Child Protection and Violence Against Women, May 2004
- Quality Assurance Standards, May 2004
- Child Welfare Practitioner Training Curriculum, 2007/2008

Ministry of Children and Family Development, other documents

- BC Handbook for Action on Child Abuse and Neglect (n.d.)
- Family Development Response/Investigation Screening Tool Version 2, Vancouver Island Region
- Investigation of Domestic Violence/Child Abuse/Neglect Protocol, 2009, *Draft*

Medical Records

- Vancouver Island Health Authority, hospital records for Christian
- Vancouver Island Health Authority, hospital records for Sunny Park

Police Records

- Victoria Police Department, video/audio recordings of interview with Peter Lee July 31, 2007
- Victoria Police Department, video/audio recordings of interviews with Sunny Park July 31, 2007 and Aug. 1, 2007
- Victoria Police Department, Peter Lee's police records
- Victoria Police Department, Policy/Procedure Manual, 1994 amended March 2009
- Oak Bay Police Department, Peter Lee's police records
- Oak Bay Police Department, Sunny Park's police records

BC Coroners Service

- Inquest into the deaths of Christian's family members. April 28 – May 7, 2008

Ministry of Attorney General, Criminal Justice Branch

- Crown Counsel Policy on Spousal Assault, 2000
- Crown Counsel Clear Statement, attached as exhibit to affidavit sworn May 21, 2008 for judicial review in BC Supreme Court
- Transcripts of Peter Lee's criminal court proceedings, August 29, 2007

Ministry of Public Safety and Solicitor General

- Referral Policy for Victims of Power-Based Crimes: Family Violence, Sexual Assault, and Criminal Harassment, 2007
- Violence Against Women in Relationships, Information Bulletin for Police, 2006

Other Materials

- *Nova Scotia High-Risk Case Coordination Protocol Framework Spousal/Intimate Partner Violence*. (2004). Departments of Justice, Public Prosecution and Community Services.
- *Fourth Annual Report of the Domestic Violence Death Review Committee*. (2006). Office of the Chief Coroner, Province of Ontario.
- *Sixth Annual Report of the Domestic Violence Death Review Committee*. (2008). Office of the Chief Coroner, Province of Ontario.
- *Keeping Women Safe: Eight Critical Components of an Effective Justice Response to Domestic Violence*. (2008). Critical Components Project Team, B.C.
- *Best Practice Approaches, Child Protection and Violence Against Women: A Curriculum for Child Protection Workers*. (2008). Draft copy. Jill Cory.

Appendices

- *In the Best Interests of Children and Mothers: A Proposed Welfare Response to Violence Against Women.* (2003). Ontario Association of Interval and Transition Houses.
- *Developing a Dialogue: A Preliminary Discussion Paper on Child Protection Issues in Cases Involving Violence Against Women and Children.* (2000). Discussion Paper.
- *A Handbook for Police Responding to Domestic Violence – Promoting Safer Communities by Integrating Research and Practice.* (2004).

Legislation

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- British Columbia *Child, Family and Community Services Act.* (1996). Victoria, BC: Queen's Printer.
- Manitoba *Child and Family Services Act.* (1985). Winnipeg, MB: Queen's Printer.
- New Brunswick *Family Services Act.* (1983). Fredericton, NB: Queen's Printer.
- North West Territories *Child and Family Services Act.* (1997). Yellowknife, NWT: Territorial Printer.
- Nova Scotia *Children and Family Services Act.* (1990). Halifax, NS: Queen's Printer.
- Newfoundland *Child Youth and Family Services Act.* (1998). St. John's, NL: Queen's Printer.
- Nunavut *Child and Family Services Act.* (1997). Iqaluit, NU: Queen's Printer.
- Ontario *Child and Family Services Act.* (1990). Ottawa, ON: Queen's Printer.
- Prince Edward Island *Child Protection Act.* (2003). Charlottetown, PEI: Queen's Printer.
- Quebec *Youth Protection Act.* (2009, revised). Quebec, QC: Official Publisher of Quebec.
- Saskatchewan *Child and Family Services Act.* (1989-90). Regina, SK: Queen's Printer.
- Yukon *Children's Act.* (2002). Whitehorse, YK: Queen's Printer.

Appendix F: Interviews Conducted During the Representative's Investigation

Staff of the Ministry of Children and Family Development

- Social Worker
- After Hours Social Worker
- Acting Team Leader
- Team Leader
- Director of Integrated Practice, Vancouver Island
- Director of Child Welfare Policy Team, Provincial Office
- Manager of Child Welfare Policy Team, Provincial Office
- Director of Regional Council Support Team, Provincial Office
- Director of Learning and Development, Provincial Office
- Community Services Manager, Southern Vancouver Island

Staff of the Victoria Police Department

- Police Sergeant
- Police Constable
- Manager of Information and Privacy Section

Other

- Sunny Park's lawyer
- Lawyer, trusted acquaintance of both Sunny and Peter
- Two psychologists who counselled Sunny and Peter

Appendix G: Multidisciplinary Team

Under Part 4 of the *Representative for Children and Youth Act* (see Appendix A: *Representative for Children and Youth Act*) the Representative is responsible for investigating critical injuries and deaths of children who have received reviewable services from the Ministry for Children and Family Development (MCFD) within the 12 months before the injury or death. The *Act* provides for the appointment of a Multidisciplinary Team to assist in this function, and a Regulation outlines the terms of appointment of members of the Team.

The purpose of the Multidisciplinary Team is to support the Representative's Investigations and Review program, providing guidance, expertise and consultation in analyzing data resulting from investigation and reviews of injuries and deaths of children who fall within the mandate of the Office, and formulating recommendations for improvements to child-serving systems for the Representative to consider. The overall goal is prevention of injuries and deaths through the study of how and why children are injured or die and the impact of service delivery on the events leading up to the critical incident. Members meet at least quarterly.

The Multidisciplinary Team brings together expertise from the following areas and organizations:

- Ministry of Children and Family Development, Child Protection
- policing
- Coroners Service
- BC Injury Research Prevention Unit
- Aboriginal community
- pediatric medicine and child maltreatment/child protection specialization
- nursing
- education
- pathology
- special needs and development disabilities
- public health

Multidisciplinary Team Members

Dr. Evan Adams – Dr. Adams is the Aboriginal Health Physician Advisor for the Office of the Provincial Health Officer, as well as a family physician. He is a Masters candidate at the Johns Hopkins Bloomberg School of Public Health, a past-president of the Rediscovery International Foundation, and a Youth Advisory Committee member at the Vancouver Foundation. He is a member of the Coast Salish Sliammon First Nation.

Dr. Geoff Appleton – Dr. Appleton is Past-President of the BC Medical Association and an established family physician in Terrace. A significant part of his practice involves the medical care of children and youth, including those of Aboriginal descent. He also served as the Medical Director of the Terrace Child Development Centre for many years, and has expertise in working with children and youth with developmental disabilities and fetal alcohol spectrum disorder.

Karen Blackman – Ms Blackman is currently the Senior Director of Practice Support and Quality Assurance with the Ministry of Children and Family Development. She has 21 years of experience including work as a social worker, team leader, practice analyst and community services manager in the ministry. Ms Blackman holds a Bachelor of Social Work degree and a Master of Arts in Leadership and Training.

Beverley Clifton Percival – Ms Percival is from the Gitksan Nation, and is a negotiator with the Gitksan Hereditary Chief's Office in Hazelton. She holds a degree in Anthropology and Sociology and is currently completing a Master of Arts degree at UNBC in First Nations Language and Territory. Ms Percival has worked as a researcher, museum curator, and instructor at the college and university level.

Les Dukowski – Mr. Dukowski is a past-president of the B.C. Principals' and Vice-Principals' Association. He has taught for a total of 34 years, 22 of which have been as a school principal or vice-principal. Mr. Dukowski has coauthored a mathematics textbook series and contributed to the 1988 Sullivan Royal Commission on Education.

Ruby Fraser – Ms Fraser is Regional Director, Quality and Risk Management for the Northern Health Authority, monitoring health care incidents across the continuum from community to acute care.

Dr. Jean Hlady – Dr. Hlady is a clinical professor in the Department of Pediatrics at the University of British Columbia's Faculty of Medicine. She is also a practising pediatrician at BC Children's Hospital and has been the Director of the Child Protection Service Unit for 21 years, providing comprehensive assessments of children in cases of suspected abuse or neglect. Dr. Hlady also served on the Multidisciplinary Team for the Children's Commission.

Norm Leibel – Mr. Leibel is the Deputy Chief Coroner for the BC Coroners Service, who has 25 years of policing experience and 17 years as a coroner. Mr. Leibel has examined the circumstances around child deaths in criminal and non-criminal settings, with the goal of preventing similar deaths in similar circumstances in the future. Mr. Leibel was a member of the Multidisciplinary Team for the Children's Commission.

Sharron Lyons – With 32 years in the field of paediatric nursing, Ms. Lyons currently works as a Registered Nurse at the BC Children's Hospital, is past-president and current treasurer of the Emergency Nurses Group of BC, and is an instructor in the provincial Paediatric Emergency Nursing program. Her professional focus has been the assessment and treatment of ill or injured children. She has also contributed to the development of effective child safety programs for organizations like the BC Crime Prevention Association, the Youth Against Violence Line, the Block Parent Program of Canada and the BC Block Parent Society.

Russ Nash – Mr. Nash is currently the Officer-in-Charge of a Major Crime Section with the RCMP. He has expertise in extensive criminal investigations and, in particular, in homicide investigations. He has been involved in a variety of RCMP programs focused on youth, including the D.A.R.E. program, and also volunteers as a coach and manager of youth sports teams.

Dr. Ian Pike – Dr. Pike is the Director of the BC Injury Research and Prevention Unit and an Assistant Professor in the Department of Paediatrics in the Faculty of Medicine at the University of British Columbia. His work has been focused on the trends and prevention of unintentional and intentional injury among children and youth.

Dr. Dan Straathof – Dr. Straathof is a forensic pathologist and an expert in the identification, documentation and interpretation of disease and injury to the human body. He is a member of the medical staff at the Royal Columbian Hospital, consults for the BC Children's Hospital, and assists the BC Coroners service on an ongoing basis.

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