

Imagining Courts that Work for Women Survivors of Violence



Prepared by Pivot's **Jane Doe Legal Network**

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This report was developed through the collaborative efforts of the Jane Doe Advocates' Group. The group meets monthly for legal education, to share knowledge and resources and to work on systemic issues related to access to justice for women who have experienced violence.

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Imagining Courts that Work for Women

EXECUTIVE SUMMARY

British Columbia's justice system is at a critical juncture on the path to developing an effective system response to violence against women. With the exception of a small pilot program in Duncanⁱ, British Columbia is one of the few jurisdictions in Canada without specialized courts mandated to hear cases involving violence against women in relationships. Vulnerable women in BC have been disproportionately impacted by cuts to legal aid and BC has been without a Minister for Women's Equality since that position was eliminated ten years agoⁱⁱ. In 2012, the Provincial Government took some actions that offer important entry points into a renewed discussion about meaningful access to justice for women who have experienced violence. The Premier created a new Provincial Domestic Violence Office and the Minister of Justice and Attorney General initiated a large-scale review of the justice system. While the focus of these moves has not been on adding resources to a beleaguered legal system or addressing poverty among women and children, there is now a lot of talk about reforming BC's justice system to better handle the large number of cases involving domestic violence.

This report began in 2009 with an informal conversation among anti-violence workers about whether specialized courts could better meet the needs of the women we work with. At that time, it was not envisioned as a submission to the Provincial Domestic Violence Officer or as a response to the Justice Reform Initiative, however it now offers a timely critique of the current justice system response to violence against women. It also offers an extensive look at programs from other jurisdictions and key questions that must be considered if BC were to develop domestic violence courts. Finally, this report offers recommendations for achievable reforms and effective program development, grounded in the perspectives of women who have been through the justice system as survivors of violence and the women-serving agencies that work with them every day.

In offering this report, and the recommendations contained within it, we would like to acknowledge that there are valid concerns with a number of domestic violence court models including:

- Marginalizing issues of violence against women in relationships and gender-based violence.
- "Decriminalizing" violence against women through a strong focus on therapeutic interventions and/or a lack of appropriate, evidence-based therapeutic options for men who abuse.
- Under-resourcing of programs offered through the courts.
- Intensification of some of the concerns related to traditional criminal justice interventions including women's loss of control over the process.

In spite of these concerns, in the current context we recommend the development of specialized and community-based court programs throughout British Columbia, either within existing courthouses or in discreet facilities. Because BC is relatively late to the game in terms of developing specialized courts, we believe there is a unique opportunity to develop a program with the benefit of two decades of lessons, research and reflections from other jurisdictions. The most successful models from other jurisdictions rely heavily on partnerships within the criminal justice system, but also with women-serving agencies that have a deep understanding of the dynamics of violence against women and a mandate to work with women to end violence against women.

We believe that domestic violence courts grounded in the principles of women's autonomy and empowerment, victim safety and offender accountability should be part of an overhaul of BC's justice system. In order to build courts that truly meet the needs of women survivors of violence, the process must

be designed to ensure meaningful participation by a wide-range of women-serving and anti-violence organizations.

We take the position that by bringing together elements from domestic violence courts in a number of Canadian jurisdictions and relying on the expertise of women who have been through the justice system and the women-serving agencies that work with them, there is an opportunity to develop a court that can better support women's safety and autonomy while achieving the goal of smoother administration of justice.

Data generation for this report included an online survey for service providers and open-ended interviews with women who have experienced male violence. Four major areas for reform emerged from the research:

- Police responses to reports of violence.
- The court experience and continued insecurity of women during court proceedings.
- The role of court professionals (lawyers, the judiciary and victim services workers) in cases involving violence against women.
- Court orders, sentencing and enforcement.

In this report, we address each of these areas in three ways. First, we explore the concerns that participants reported, as well as their analysis of what is working well and what could be improved to better meet the needs of women who have experienced violence. We then look at a range of program and practice solutions from other jurisdictions that have been developed to address the issues raised by the data. We then provide a series of recommendations based on both the data and the alternatives we have presented. While this report focuses largely on the criminal law context, we recognize the critical role that the family law system plays in terms of women and children's safety and well-being. The findings from this study highlight the extent to which these two areas of law are interconnected in terms of women's experiences and the need for much deeper collaboration between these two systems.

The final section of the report looks at how other jurisdictions have gone from recognition of a problem to implementation of new programs or specialized courts. We point to four essential factors in developing courts that will better meet the needs of women who have experienced violence in BC: **political will** in the form of strong commitments and resource allocation, **evidence-based program development for the court itself, victim service programs and programs targeting offenders, judicial leadership, and collaborative multi-stakeholder engagement** with a focus on partnerships with women-serving agencies.

1. INTRODUCTION



British Columbia is one of the only jurisdictions in Canada without specialized courts mandated to hear cases involving violence against women in relationships.ⁱⁱⁱ This report explores the question of whether British Columbia should consider developing specialized courts to handle cases involving violence against women, and if so, what form those courts should take.

The impetus for this project came in fall of 2009, when members of the Jane Doe Advocates' Group, a Vancouver-based coalition of advocates and service providers working directly with women impacted by male violence, began to notice that domestic violence cases were being heard in Vancouver's Downtown Community Court ("DCC"). The DCC, which opened in 2008 in the Downtown Eastside of Vancouver, was designed to hear cases involving summary conviction offenses committed by offenders in the neighbourhood, in recognition of the reality that many of these offenders struggle with health and social problems, including alcoholism, drug addiction, mental illness, homelessness, and poverty.

The Downtown Community Court takes a "problem-solving" approach in its work with offenders and emphasizes strategies for addressing offenders' needs, as well as the root causes of criminal behaviour. The theory behind the court is that recidivism can be minimized by acknowledging the intersecting challenges facing offenders, and by connecting offenders with relevant social services and support.^{iv}

The fact that women were being asked to attend court at the DCC as victims of assaults by intimate partners seemed at odds with both the public education materials produced by the courts and information that had been provided to community groups about the types of cases that would be handled by the DCC. Some of the women who had been to the DCC felt that the violence and abuse they were experiencing was being equated with petty crimes like shoplifting and that there was a greater focus on the needs of the offender than on their own needs.

Through discussions with staff from the DCC, our group learned that assault cases, including some domestic violence cases, were added to the mandate of the DCC as part of a last-minute change to the court's jurisdiction to include all summary conviction offences (such as causing a disturbance) and hybrid offences where the Crown proceeds summarily (examples include assault causing bodily harm or impaired driving). While the Court was not designed with the dynamics of violence against women in mind,^v these cases have become a substantial part of what the court does. As of fall 2011, the court had heard 885 domestic violence cases. This accounts for 19.6% of all cases heard in the Court, and does not include other cases of violence against women that do not involve an intimate partner.^{vi}

Around the same time that the Jane Doe group began exploring the question of domestic violence courts, the Office of the Representative for Children and Youth in British Columbia released the result of its inquest into the 2007 death of Christian Lee in Victoria. The report, entitled *Honouring Christian Lee—No Private Matter: Protecting Children Living With Domestic Violence*, explored the circumstances leading up to the murder of 6-year-old Christian, his mother, and his grandparents at the hands of Christian's father. In the report, the Representative for Children and Youth recommended 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 the establishment of domestic violence courts to better protect the safety of children and their mothers.

The Jane Doe Advocates' Group had a number of discussions about whether the group should take an official position on the need for domestic violence courts in Vancouver and throughout British Columbia. We soon realized that although there was a wealth of knowledge within the group about women's experiences with traditional courts, we knew very little about the various models. Preliminary research suggests that specialized domestic violence courts could improve the response of the justice system to incidents of domestic violence by decreasing court processing times, increasing conviction rates, providing a focal point for programs and services for victims and offenders, and, in some cases, allowing for the specialization of police, Crown prosecutors and the judiciary in domestic violence matters. However, there were concerns that separating violence against women into a specialized court could marginalize the issue and would not compel the entire system to engage with gendered violence or develop a nuanced understanding of the issue. There were also outstanding questions regarding the use of alternative dispute resolution and treatment options in relation to domestic violence in some specialized models.

In order to answer some of our questions, we joined forces with the UBC Centre for Feminist Legal Studies and Battered Women's Support Services to host a public forum on domestic violence courts. Interest in the public forum was staggering. The speakers at the forum, including several prominent academics, The Representative for Children and Youth in BC, an RCMP officer and the Executive Director of Battered Women's Support Services, discussed the rationale behind specialized courts, shared evaluations of courts in other jurisdictions, and examined the question of whether or not specialized courts are an appropriate option for British Columbia. Common to almost all presentations was the recommendation for **increased collaboration, coordination, and training** between child welfare services, victim support services, police, the justice system, and any other key actors involved in the investigation of domestic violence and support of its victims.

We left the forum with a stronger understanding of the broad range of possibilities for specialized courts, but also with a need to thoroughly explore the various options in regards to some of the weaknesses of existing models. This project is our attempt to combine the experiences and wisdom of women who have been through the justice system in British Columbia as victims of male violence and the experience of advocates who have supported women through the system with an array of options and lessons from other cities, provinces and countries, in order to envision a justice system that is responsive to the needs of women survivors of violence, and to develop a plan for moving that vision forward.

This report begins with a general overview of literature on domestic violence courts, followed by a description of the methods employed in this project. We then cover four key issues women and advocates raised about their experiences with the justice system:

1. Police response
2. The court experience and insecurity
3. Court professionals
4. Court orders and enforcement

Each issue section is divided into three parts:

1. Women and advocates' experiences with the courts
2. Models from other jurisdictions
3. Recommendations for British Columbia

The majority of the data that forms the basis of this report comes from women living and/or working in the Greater Vancouver area; thus, our recommendations mainly focus on this region of the Province. However, this report also includes stories and anecdotes from other parts of the province. In addition, many of the concerns related to women's interaction with the criminal justice system addressed in this report are also addressed in the Government of British Columbia's 2010 Violence Against Women in Relationship (VAWIR) policy. We point to places of overlap and shared principals with the policy throughout this report.

In offering this report, and the recommendations contained within, we would like to acknowledge that there are valid concerns with a number of domestic violence court models including:

- Marginalizing the issues of violence against women in relationships and gender-based violence.
- "Decriminalizing" violence against women through a strong focus on therapeutic interventions.
- Under-resourcing compared to the mainstream criminal courts.
- Intensifying some of the concerns related to traditional criminal justice interventions including women's loss of control over the process.

In spite of these concerns, in the current context we recommend the development of a specialized court, either within an existing courthouse or in a discrete facility. We take the position that through bringing together elements from domestic violence courts in a number of Canadian jurisdictions, there is an opportunity to develop a court that can better support women's safety and autonomy in decision-making, while also holding offenders accountable for their actions.

While this report focuses largely on the criminal law context, we recognize the critical role that the family law system plays in women and children's safety and well-being. The findings from this study highlight the extent to which these two areas of law are interconnected in terms of women's experiences, and the need for much deeper collaboration between these two systems. Throughout this report, we present solutions for enhancing collaboration between the family and criminal court systems when there are parallel proceedings underway, in order to support safety and ensure that the court process is more efficient and effective for everyone involved.

We believe that this is an opportune moment for BC to engage in the process of developing a specialized domestic violence court. In recognition of the disproportional impacts of funding cuts to legal aid on women in BC, and of the elimination of the Minister of Women's Equality, there has been increased

emphasis on the need to address the large number of cases involving domestic violence in British Columbia. In 2012, the BC government took some actions that offer important entry points into a renewed discussion about meaningful access to justice for women who have experienced violence. Justice Minister and Attorney General Shirley Bond initiated a large-scale review of the justice system, and in March, the Premier created a new Provincial Office of Domestic Violence mandated to support the coordination and collaboration of domestic violence programs and services throughout government. In the final report of British Columbia's Justice Reform Initiative, *A Criminal Justice System for the 21st Century*, led by Geoffrey Cowper, it is recommended that the new Provincial Office of Domestic Violence should work collaboratively with the Criminal Justice and Public Safety Council to prepare a plan to reduce domestic violence. This involves an integrated and cross-sectoral approach that includes an informed role for the victim, diversion if appropriate, early resolution, timely hearings, innovative sentencing, and transparency in its goals and progress towards achievement.

While Minister of Justice Shirley Bond has primarily focused on public awareness and prevention strategies,^{vii} a recent report prepared for the Minister of Justice and Attorney General by the Legal Services Society of BC ("LSS") recommends that BC consider specialized courts for addressing domestic violence. The final chapter of the report looks at the process through which other jurisdictions have developed their specialized courts and the way that the Downtown Community Court was developed in Vancouver and offers a potential road map for creating courts that better meet the needs of women survivors of violence.



2. BACKGROUND - What are Domestic Violence Courts?

In Canada, there are no specific criminal code offences that distinguish domestic violence from other violent offences.^{viii} In practice, however, courts and law enforcement officials recognize that domestic violence differs from other kinds of violent crime as indicated by their categorization as K-files. Emotional, financial, and familial bonds between victim and perpetrator complicate the processes of reporting, charging, and prosecuting an offender.

Historically, law enforcement and the criminal justice system viewed domestic violence as a private matter falling largely outside of the purview of public policing. The 1980s marked the beginning of a major transformation in both societal attitudes and justice system responses to domestic violence. Over the course of several decades, both policing agencies and the criminal justice system became more aware of, and more responsive to, domestic violence. However, there are still shortcomings in the ability of the traditional justice system to meet the needs of women who have experienced violence. Police and prosecutors also express frustration with the inherent challenges in holding offenders accountable through the criminal justice process.

Domestic violence courts are specially designed to address problems common to prosecuting domestic violence cases, such as low levels of reporting, frequency of charge withdrawals, recantations, threats against the victim, lack of defendant accountability, and a high incidence of repeat offences. Generally, domestic violence courts deal with violence in intimate partner relationships, but in some cases specialized courts deal with family violence outside of intimate relationships such as child abuse, elder abuse, or other power-based crimes (including sexual assault) where there is not necessarily a familial bond.

There is great diversity among specialized domestic violence courts both within Canada and internationally, but some common features include:

- Specially trained legal staff.
- Physical separation between the victim and the accused person.
- Increased opportunities for dialogue between judges and victims and/or judges and offenders.
- Continuous monitoring of the defendant in terms of compliance with protective orders, no contact orders, and participation in substance abuse treatment.

i. Rationale for Specialized Courts

Traditional court systems have proven to be poorly equipped to address the needs and challenges experienced by women victims of male violence. Many victims seek to withdraw charges due to inadequate support and services to keep them involved in the judicial system, because of unresolved financial and familial issues involving the offender, or because they do not feel safe from further violence or harassment during the court process. This is problematic from a criminal justice system perspective, since victim cooperation is the strongest determinant of conviction. It is also problematic from the perspective of women's safety and equality because it may embolden abusers, who learn that there are no consequences for their behaviour. Consequently, women may be reluctant to call police the next time they are in danger.

Specialized domestic violence courts that utilize a response coordinated between the judicial system, police, and community services have proved to be successful in keeping women involved in the criminal justice process, securing convictions, and providing support to victims.^{ix} Successful domestic violence courts provide a series of services and programs centralized in the court. Services may include the following:

- A coordinated response from specialized police, Crown and victim services staff.
- Defendant monitoring.
- Enforcement strategies that ensure the offender is complying with orders.
- Relevant support services for victims.^x

Some other services offered by domestic violence courts include batterer intervention programs, probation departments, access to shelters, counseling for victims, culturally appropriate services, and supervised visitation programs for cases involving children. For example, the Winnipeg Family Violence Court includes a specialized police force, various victim services programs, specialized Crown counsel who practice “file ownership”, dedicated courtrooms, and a specialized corrections service which oversees treatment programs for convicted offenders.^{xi}

ii. Diversity among Domestic Violence Courts

Over the past two decades, “the term ‘specialized court’ has become a short-hand term for a broad range of related services that support or interact with the court.”^{xii} Most specialized courts operate in tandem with victim support programs and government or community treatment agencies, and often in collaboration with specialized police units, Crown counsel, and probation officers. While there is significant variety from jurisdiction to jurisdiction, two models of specialized domestic violence courts represent the opposite poles of the spectrum: interventionist and integrated courts.

The **interventionist domestic violence court model** focuses on offender treatment over obtaining a criminal conviction. First-time offenders who plead guilty and are willing to enter treatment are often eligible for counseling. With this model, offenders are typically granted a conditional discharge or probation after successfully completing a treatment program.^{xiii} Some courts, such as the Calgary domestic violence court, allow offenders deemed to be low-risk to have their charges stayed with a peace bond if they attend rehabilitation treatment.^{xiv} Critics of this model suggest that it may make victims feel that the violence against them is minimized. They also note that forced counseling where the offender does not want to stop being violent does not lower the recidivism rate.

The **integrated domestic violence court model**^{xv} focuses on maximizing cooperation between police and Crown in order to obtain the greatest number of convictions. Integrated courts rely on a vigorous prosecution model which emphasizes investigative methods that lessen reliance on the victim during the proceedings, including securing video-taped statements from the victim as soon after the event as possible, collecting photographs of injuries, and obtaining copies of 911 emergency tapes and other audio-taped evidence.^{xvi} However, critics of these practices note that this approach can limit the autonomy of the victim.

iii. Critiques of Domestic Violence Courts

Although domestic violence courts have been shown to address some of the complex challenges that arise in prosecuting domestic violence cases, there have been some important criticisms of specialized courts. Defense counsel have argued that domestic violence courts are biased in favour of victims and that a presumption of guilt often exists in relation to the accused. Judges have also expressed concern that specialized domestic violence education for judiciary and court staff may prejudice the courtroom in favour of the victim and compromise a judge’s objectivity.^{xvii}

Some feminists have critiqued specialized domestic violence courts on different grounds than defense lawyers and other justice system professionals. Feminist critiques centre around two key issues: that some domestic violence courts take power away from victims, and that specialized courts have the potential to marginalize and even decriminalize domestic violence by focusing on therapeutic interventions with offenders. Some evaluations of integrated courts have found that many victims do feel disempowered during the court process. A study that involved follow-up interviews with women victims whose partner or ex-partner was convicted in Calgary's HomeFront specialized domestic violence court found that some women felt that their desires were not taken into consideration. Many did not wish to go forward with charges against their partner. Rather, they wanted the offender removed for their immediate safety.^{xviii} "No-drop" and mandatory arrest policies, which are often instituted in domestic violence court models, have been criticized for disempowering women by limiting women's the consideration of women's perspectives in the criminal justice process.^{xix}

Interventionist models have come under criticism from some women's organizations due to the focus on offender rehabilitation rather than punishment, which could send the message to offenders and society at large that domestic violence is less serious than other violent crimes.^{xx} Some domestic violence courts, such as the Saskatoon Domestic Violence Court and the Battleford Domestic Violence Treatment Options (BDVTO) Court in North Battleford, Saskatchewan, substitute treatment programs for criminal charges in cases where the accused pleads guilty.^{xxi} In these courts, if the offender pleads guilty and successfully completes a treatment program, the court will often stay their criminal charges. This has led some feminists and victim advocates to argue that treatment courts run the risk of effectively decriminalizing violence against women in relationships. In cases where the woman chooses to leave the offender, completion of a treatment program is sometimes used to negate past violent and abusive behaviour during custody and access proceedings. In addition, research has shown that treatment programs do not create significant drops in recidivism.^{xxii} Proponents of the interventionist model have responded to these concerns by arguing that this rehabilitative model allows for some form of intervention and monitoring in cases where charges would otherwise be stayed, and serves an important function in terms of victim safety in cases where the offender and the victim continue their relationship.



3. METHODOLOGY AND ANALYSIS

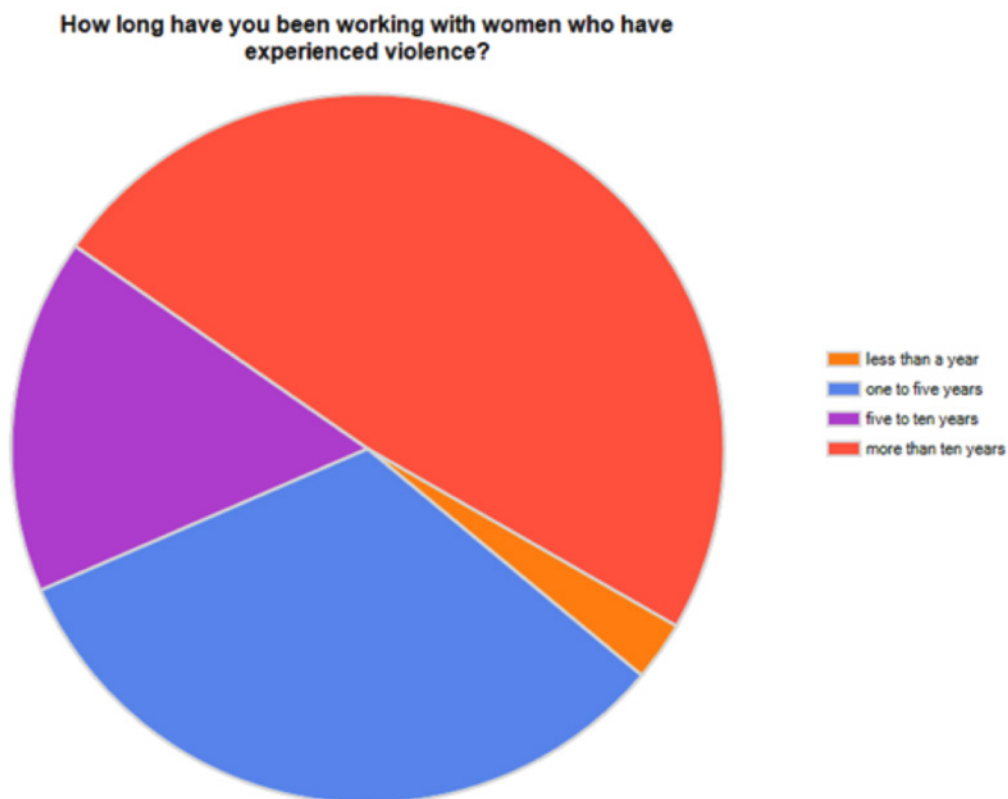
This project began with a series of conversations among women working with women who have experienced violence. The formal data-collection phase of the research, which began in May of 2011, included an online survey for service providers and open-ended interviews with women who have experienced male violence and have been involved with the criminal justice system.

i. Online Survey

The online survey was developed based on key themes and issues that were raised during conversations at Jane Doe Advocates' group meetings, at the community forum that the group organized, and in the domestic violence courts literature. The survey included both quantitative and qualitative questions. Respondents were asked to share demographic and organizational information and to describe the legal needs of their clients, women's experiences attending courts, experiences with various courthouse staff, and the level of satisfaction women feel with court orders and sentencing. Service providers were also asked to share their recommendations for change.

The survey was sent to organizations that serve women across the province using various email lists. Forty-three service providers participated. Respondents worked with a range of organizations including transition houses, victims' service organizations, and crisis centres. The majority of the respondents have been working for at least 10 years with women who have experienced violence.

The areas served by the responding organizations covered all of the Lower Mainland, Vancouver Island, and parts of the interior of British Columbia.



ii. Interview participants

A number of service providers who took part in the online survey indicated that they knew of women who might be willing to share personal stories. Six women were interviewed and their stories were recorded and modified only as was necessary to maintain confidentiality. The rest of the personal stories contained in this position paper were shared with permission by service providers who were directly involved in the cases. Stories are not taken as representative of women's experiences, but rather as anecdotal examples of some of the issues identified by service providers as common experiences among women they work with.

iii. Structure

Out of that data, four major areas for reform emerged. These four areas form the basis of this position paper:

- Police responses to reports of violence.
- The court experience and continued insecurity of women affected by violence during court proceedings.
- The role of court professionals (lawyers, the judiciary, and victim services workers) in cases involving violence against women.
- The effects of court orders, sentencing, and lack of enforcement for women who have experienced violence.

We address each of these issues in three ways. Firstly, we look at the concerns participants reported, as well as their analysis of what is working well and what could be changed to better meet the needs of women who have experienced violence. We then look at a range of program and practice solutions from other jurisdictions focused on the issues raised by the data. Finally, we provide a series of recommendations based on the data and the alternatives we have presented. The final section of the report looks at how other jurisdictions have gone from the recognition of a problem to the implementation of new programs or specialized courts.

4. ISSUES, ALTERNATIVES AND RECOMMENDATIONS



A. Police Responses

The issue of police response to violence against women was not originally within the scope of this project.

However, police response arose in every conversation we had with women who had been impacted by male violence. This issue also emerged in survey responses and during group meetings.

As first responders, the way the police step into a situation, collect evidence, communicate with the Crown, and manage reported breaches of protective orders has a profound impact on the experiences of victims and their safety.

British Columbia's 2010 Violence against Women in Relationships Policy (VAWIR) echoes this position, explaining that "[a]s first responders, police have a key and important leadership role in managing issues associated with keeping victims safe."

The majority of women who have experienced intimate partner violence do not contact police.^{xxiii} Participants in this study indicated that women often refrain from calling the police because of fear that the police will not take them seriously, or fear of loss of control over the process. Canadian studies have found that women generally look to the police for short-term solutions.^{xxiv} Many victims do not want their partner charged—they simply want the police to make the violence stop. When police do attend, it is usually in response to a call from a woman fearing immediate risk to her or her children's personal safety.

Survey respondents note that the police are not always attentive to the dynamics of power and control that characterize abusive relationships, or the wide variety of reasons for a woman's choice to return to an abusive relationship:

Women feel they are often judged if they call the police multiple times on the same abuser. With the exception of the DVU [Domestic Violence Unit], women feel they are not taken as seriously as they should be, particularly when they are reporting from certain neighborhoods. (Respondent #31)

Sometimes the woman is supported by the RCMP response, but more times than not, she is not supported for many reasons. She is ignored, judged, minimized, disbelieved... (Respondent #42)

A number of respondents also raised the concern that even when a woman follows through with the court process and is granted a protection order, police do not always support her in enforcing the order:^{xxv}

The women are told to report to RCMP when their abuser tries to contact them, but after a few times the police are acting irritated that she keeps calling because the police have not done enough to deter the abuser from contacting the women ... this is according to general consensus of women's stories to me. (Respondent #20)

The experiences described by survey respondents and interviewees are at odds with BC's VAWIR policy, which states that calls to police involving violence against women, including "all reported

breaches of no-contact conditions of criminal orders, recognizances, and civil restraining orders”, should receive priority response.^{xxvi} The result is that women are often reluctant to call the police until there is a significant violent incident:

Women often feel that they need to be stabbed or otherwise be seriously physically injured before police will concern themselves with a breach. (Respondent #14)

Oftentimes a breach is not investigated by the police and/or followed up by Crown. (Respondent #12)

The VAWIR policy gives considerable discretion to police and prosecutors. As a result, practice varies considerably across the province.^{xxvii} The survey data also suggests that there are significant differences among police forces in terms of the approach to domestic violence calls and women’s experience of police responses:

Generally speaking, women have stated they have no problem with the Abbotsford police. I have not received the same positive feedback about the Mission RCMP. (Respondent #4)

This is a community which seems to have young [police] officers who do not seem to understand the issues involved. (Respondent #32)

This lack of consistency results in inequitable services based on geography and has the potential to put women at risk.

ii. The Alternatives

There are policing models within BC and in other Canadian jurisdictions for responding to domestic violence that could be instructive in creating a standard approach to violence against women, rooted in the VAWIR policy and in best practice standards for forces across the Province.

1. Domestic Violence Units (DVUs)

One response to the challenges of domestic violence cases and concerns by women’s groups about police response has been the development of specialized domestic violence units within police departments.^{xxxviii} These units have demonstrated their effectiveness in responding to high-risk cases.^{xxix}

Evaluations of domestic violence units^{xxx} have associated these specialized police units with a number of positive outcomes, including reduced homicides, increased victim safety, increased autonomy and empowerment for victims, reduced fear and anxiety for victims and their children, increased efficiency and coordination among service providers, and reduced recantation and minimization by victims when wrapped in services and support.^{xxxi}

Key elements of successful models include:^{xxxii}

- Methods to expedite cases.
- Sensitive, informed, appropriate services such as risk assessment, provided by trained justice professionals.^{xxxiii}
- Coordination of justice system response in policy and practice, and coordination with a range of other service providers.
- Early access to offender treatment to capitalize on offender motivation to change.
- Timely and meaningful sanctions, with monitoring to hold offenders accountable (including appropriate assaultive men's treatment).
- Access for victims to support, information and referrals.
- Monitoring and evaluation of systems to assess effectiveness.
- Shared information systems with family court.
- Dedicated judges, prosecutors, courtrooms or court days.

We will look at three examples of DVUs in BC and one in Alberta: the Vancouver Police Department's Domestic Violence & Criminal Harassment Unit, the Abbotsford Domestic Violence Unit, the Calgary Police Services' Domestic Violence Conflict Unit, and the Langley Domestic Violence Pilot project, which introduced a new approach to investigation and collaboration that was diffused throughout the police force rather than being confined to a specialized unit.

a) Vancouver Police Department's Domestic Violence & Criminal Harassment Unit ("DVACH")

The DVACH is a partnership program between Family Services of Greater Vancouver and the Vancouver Police Department, established in 1997 as two separate but complementary units within one office.^{xxxiv} DVACH teams are composed of counselors and police officers that provide rapid follow-up on selected high-risk domestic violence cases reported to Vancouver police.

The DVACH currently operates three Domestic Violence Response Teams (DVRTs), which are accountable to an advisory committee comprised of representatives from Family Services of Greater Vancouver, the BC Attorney General and other community stakeholders. Patrol Division members generally refer cases to the DVACH, but incidents may be referred from other sources in extraordinary circumstances. DVACH works with approximately 10% of the domestic violence cases in Vancouver each year. File selection criteria is based on:

- Level of violence
- Risk level of offender
- Degree of marginalization of victim
- Problematic police response in the past
- Need for both counselor and police officer to work together

When a DVRT is involved and charges are laid, the victims are supported throughout the process until trial, to reduce the likelihood of the victim “dropping out” of the prosecution.^{xxxv} There is no systemic collaboration and practice varies with individual police and prosecutors.^{xxxvi}

b) Abbotsford Domestic Violence Unit^{xxxvii}

When the Abbotsford DVU was created in January 2010, one police officer was assigned full-time to handle intimate partner violence cases, in consultation with a victim services worker from Abbotsford Community Services. The mandate of the DVU is to support victims, to deal effectively with Crown, and to reduce barriers to reporting violence.^{xxxviii} Two Crown prosecutors are designated to deal with domestic violence files and each devotes two full days per week to high-risk cases (about 10-15% of domestic violence cases).^{xxxix} There is a monthly meeting of the key players: the police, Crown, probation and the Ministry of Children and Family Development. In 2010, the Abbotsford police handled 803 domestic violence files, of which the DVU handled 21%. The DVU obtained an 81.4% conviction rate, versus 58.5% for the other domestic violence cases.

c) Calgary Police Services’ Domestic Violence Conflict Unit

The Domestic Violence Conflict Unit’s stated goal is to reduce incidents of domestic conflict by providing an effective and sensitive response to the needs of the victims.^{xl} Started in 2002 with four dedicated prosecutors, the DCU is located in the same office as HomeFront^{xli} (a community-justice domestic violence organization) in order to provide a coordinated community response to domestic violence while offering services directly to victims.^{xlii}

The Unit does not include social workers or counselors. Instead, it is largely an evidentiary team conducting rigorous investigation of serious assault cases.

The Unit reviews all domestic violence reports. Upon completion of a thorough risk assessment (to determine if the investigation fits within the scope of the Unit’s mandate), the file is assigned to one of the two-person teams. This team is then responsible for following up with the incident, interviewing the complainant and assessing the level of risk. The investigators help the complainant navigate the legal system—often laying additional charges—and connect the victim to support services within the community. If the person is at risk, the officers may move the victim to a shelter or provide safety planning and other options. The Unit also investigates all high-risk, habitual stalking offences, especially where there was a previous interpersonal relationship. Calgary Police also has a Victim Assistance Unit, which attempts to contact victims once a police report is filed. They are then able to supply the court with victim impact statements and can also accompany victims through trial if necessary.

d) Langley Domestic Violence Pilot Project (“Langley Project”)^{xliii}

The Langley Project, which ran from December 2008 to May 2009, was a collaboration between the Langley RCMP and Surrey Crown Counsel. The project was launched in the wake of the 2008 murder of three young children in Merritt at the hands of their father. The project was intended as a model for how police, prosecutors and community support services could work together to protect victims of domestic violence.^{xliiv}

The Langley Project did not involve the creation of a special domestic violence unit. Instead the focus was on implementing systemic procedural changes for all officers. The objectives were thorough police investigations, strong victim advocacy and support, early contact by Crown counsel, consultation with Crown in relation to bail and sentence, and fast-tracking of cases through the court system. The *Domestic Violence Investigation Guide* was developed, setting out best practices guidelines for investigation and prosecution. The police concentrated on the relationship between the victim and the perpetrator and not solely on the incident. By addressing surrounding circumstances, victim cooperation was more likely and the number of recantations was reduced.

The key players were viewed as collaborative partners: the police, Crown counsel, victim services, corrections and Ministry of Children, Family and Development. The victim received support and information at every stage focusing on safety including timely contact by the prosecutor. The Langley Project relied on a Mutual Expectations Agreement between the RCMP and Crown Counsel at the senior management level. All prosecutors and police were committed to follow the *Domestic Violence Investigation Guide* at all stages of the investigation and prosecution.

A substantially increased conviction rate and a reduction in recantation rate resulted. There was a 43% increase in guilty pleas, a 47% decrease in peace bonds, a 38% decrease in stays of proceedings, and an 80% decrease in recantations.^{xliv} Anecdotal reports from stakeholders also suggest that victims felt increased support.^{xlvi}

iii. Our Recommendations

All women who have experienced violence and subsequently interact with police officers must receive a response that reflects the Province’s Violence Against Women in Relationships (VAWIR) policy. The protocols set out in the VAWIR documents must be integrated into the internal policies of all police forces. Additionally, a mechanism for auditing compliance and holding officers and police forces accountable when the policy is disregarded must be put in place. Compliance auditing, including public reporting of audits, is necessary to ensure that training is grounded in both an analysis of the dynamics of violence against women in relationships and investigative techniques. In particular, police forces must focus on integrating the following sections of the VAWIR policy:

- Priority response:

This includes all reported breaches of no-contact conditions of criminal orders, recognizances, civil restraining orders, and cases where a woman attends a police station or detachment in-person alleging domestic violence.

- Primary aggressor policy

All police forces should be re-trained on the primary aggressor policy outlined in BC’s Violence Against Women in Relationships (VAWIR) policy.

- Evidence-based, risk-focused investigation

An overlapping emphasis on victim safety, building relationships, and collecting evidence necessary to prosecute cases without relying too heavily on women as witnesses.

In addition to the VAWIR policy:

- Police forces must introduce mandatory in-class training for all officers.
- All officers should be trained to:
 - a. Understand the dynamics of violence against women in relationships.
 - b. Examine the overall relationship and history between the victim and the perpetrator.
 - c. Engage evidence-based and risk-focused investigations including bringing audio and digital recorders to the scene and making use of 911 recordings.
- Specialized units, such as the VPD's domestic violence unit, and its specialized officers should be maintained and continue to serve their important role in relation to high risk and/or complex cases.
- The Interpretation and translation policy laid out in the VAWIR policy should be strengthened as followed and adhered to in every jurisdiction:
 - a. Telephone interpretation service should be used in all communications between victims and the police. This is critical with respect to any decision being made related to charges, the primary aggressor, or the need for child welfare and/or mental health interventions.
 - b. Telephone services such as CanTalk provide translation services into 154 languages 24 hours a day. They are able to provide this breadth of service by relying on a network of interpreters all of whom work from home.
 - c. Children, family members, and neighbors should never be used as interpreters except where information is required to deal with immediate safety issues. This should be explicitly stated in police policy and compliance should be rigorously monitored.
 - d. Where a woman speaks some English and it is unclear whether interpretation is required, police should err on the side of providing interpretation.
 - e. Witnesses should be provided with an interpreter and the police practice of weighing the cost or time involved in engaging an interpreter against the possible relevance of the statement should be avoided.
- Specific, evidence-based protocols must be developed for working with women with varying levels of mental wellness and substance use.
- All police and Crown should undergo training on practices in working with women with varying levels of mental wellness and substance use. Training, like the BC Society of Transition Houses' *Reducing Barriers to Support for Women Fleeing Violence*,^{xlviii} helps clarify the relationship between substance use, mental wellness and violence against women and offers tools for transition house staff.

- Protocols need to be put into place to ensure that women's outstanding warrants or probation orders do not create a barrier by dissuading them from contacting police if experiencing violence or abuse. Toronto's "Access Without Fear: Don't Ask Don't Tell" Campaign in 2004 highlights similar concerns regarding barriers related to fears of imprisonment or deportation, faced by residents without legal immigration status. The campaign emphasized that city services should not be discriminatory based on legal status, and advocated for an equal right to police protection for everyone regardless of immigration status.^{xlviii}

- In addition, departments should incorporate the following policies from the Langley Project:

- i. Police must partner with Crown, community corrections (probation), the Ministry of Children, Family and Development and with police-based and community-based victim services.

- ii. A mutual expectations agreement between the Crown and RCMP should be in place.

- iii. Best practices guidelines for investigation and prosecuting should be followed.

- iv. There should be an emphasis on communication and collaboration, which includes the victim and criminal justice personnel.

- v. Commitments to following the guidelines at all stages of the investigation and prosecution should be upheld.

- vi. Victims must receive safety focused support and information at each stage of the process and with each actor in the justice system.

- vii. The investigation and prosecution should be focused on both risk assessment and evidence collection and not be entirely reliant on uncorroborated victim testimony.

- viii. Administrative systems and tools to support best practices should be in place (such as 911 recordings, audio recorders, digital cameras) and be used.

MARY-ANNE'S STORY

Mary-Anne is a mother of four who lives in a small BC community. She is an Aboriginal woman who has been involved with various government systems since she was 17. Mary-Anne has been dealing with abuse and harassment from her children's father for several years and is unhappy with the police response. In Mary-Anne's experience the police don't often take down all the information they need or pass all the information onto Crown. Police have not taken statements after instances, and paperwork seems to get lost all the time. She has had difficulty getting no contact orders and extensions because Crown doesn't have all the information it needs, and because they say they only have three minutes for her case. She has also heard police making excuses for her ex-partner, saying things like "he wouldn't have done this if he wasn't drinking".

Mary-Anne feels that she has really had to be the one pushing the police to get the orders she needs and to keep the case going forward. Her no-contact order has been extended but police won't deal with breaches. For example, the father is supposed to call the children on a designated night, when he is sober. However, when he calls on other nights, drunk, the police do not deal with the breach even though she reports it every time.

CARRIE'S STORY

Carrie was living in a small community and was married with a young child when she was assaulted by her husband, who had a history of emotional and verbal abuse. The police were called and the ensuing report was brought to Crown counsel. Crown explained that evidence wasn't sufficient to satisfy the beyond a reasonable doubt standard and consequently no charges were laid. Without a criminal conviction, Carrie felt that the family court judge saw her escape as a choice she made to leave and therefore believed she was the root of the breakdown.

Feeling a significant amount of pressure, she signed a mediated shared parenting agreement. In the agreement, she agreed to move to the North Shore, despite not having the resources to do so, because that is where her former partner now lived. Though Carrie has avoided physical violence by leaving her home, her ex-husband has continued harassing her through the court system.

Carrie contends that her son, who is now in elementary school, has been mistreated and physically assaulted by her ex-husband and that he does not like going to his father's house because of the way he is talked to and treated. Her son has called the children's helpline and Carrie has called the police after her son disclosed the abuse. Her ex-husband claims that she is using the police to justify non-compliance with the mediated shared parenting agreement. He has used that, as well as irregular shifts at her work that have resulted in changes to pick ups and drop offs, as grounds to seek full custody.

Carrie's ex-husband has hired a series of aggressive lawyers to represent him, and Carrie has endured a number of cross examinations (that she feels have been aimed at tearing apart her character) and a number of outside-the-court-room threats by her ex-husband.

In August 2009, her husband successfully secured a court order that she must have her work schedule faxed to him to ensure that she was accountable with regard to pick up, drop offs and access visits.

Carrie has now appeared before six different judges and learned that the language used in court is as important as the content. She has learned not to talk about her ex-husband's behaviour as abusive, harassing or violent, instead she uses words like "uncooperative" and "argumentative". Five years after her initial departure from the family home, Carrie has incurred over \$155,000 in legal fees. She will be headed to Supreme Court as a self-represented litigant this summer.

B. The Court Experience and Insecurity

The move toward specialized courts that has taken place in many Canadian jurisdictions has come about over the last 20 years in part because many women report feeling re-victimized through their interactions with the criminal justice system. This is a serious concern in its own right, as well as from a law enforcement perspective, as many women do not want to engage with the court process, resulting in stays of proceedings.

Women involved with the courts as a result of male violence often feel alone, uninformed, and frustrated by long delays. Some women experience the courthouse as a place of physical insecurity, where they experience threats and intimidation by their abuser or his friends and families. Individual women and service providers we spoke to (and who responded to our survey) repeatedly mentioned a lack of sensitivity to the issues women are dealing with. They stressed the emotional and financial strain they experience when engaging with the courts, including the feeling that they are the ones on trial.

1. Re-victimization and Feeling “put on trial”

Advocates who took part in this study explained that, for women who have experienced violence, going to court as a witness can be a stressful and disempowering experience:

Our clients often express that they feel re-victimized by the court system as a witness. (Respondent #1)

The court experience is always extremely stressful and off-putting, leading women to avoid legal action unless there is no alternative. (Respondent #28)

Our justice system is built on a presumption of innocence. The accused has the right to counsel of his choosing, the right to be informed of evidence the prosecutor plans to rely on during the hearing and the right to challenge that evidence. While these are fundamental principles of our justice system, the adversarial nature of the court process and the focus on the rights of the accused can leave women feeling like they are the ones on trial.

One advocate shared the story of a case she was working on where she ended up being called as a witness and being questioned by aggressive defense counsel:

The woman had nearly been hospitalized as a result of the assault by the accused and his defense council was arguing that her mental illness was an issue. He asked the advocate if I worked at an agency that provides mental health services and I said yes. The defense went on to argue that there was evidence that the victim was mentally unstable. When I tried to explain it was not that simple and that we provide a range of services for a range of reasons, the abuser’s lawyer stopped me and said “answer the question: your agency works with people who are mentally ill, yes or no”.

Other advocates also shared concerns about the tactics employed by defense counsel and the impact on women:

They will do whatever it takes to support their client, putting the victim at risk. (Respondent #4)
[They are] just doing their job I suppose, but many are unnecessarily hard on the women victims as witnesses. (Respondent #8)



Women not only feel disempowered when they are on the stand and dealing with defense counsel, many also express feeling that their wishes and perspectives are not always considered by prosecutors and that they have little input into the criminal process:

There is a lot of fear leading up to the date, women are largely left out of the process as it is a crime against Canada and not themselves... (Respondent #14)

Because the conditions placed on offenders often end up being quite light from the victims' perspective, women often felt like engagement with the legal process was not worth what they went through, even when the accused is found guilty. While the rights of the accused remain an important consideration, the experiences of women who have been through the court system and who work with women survivors of violence suggest a need for more focus on the well-being and inclusion of victims in the court process.

2. Delays

According to BC's VAWIR policy, police domestic violence cases are to be assessed on a priority basis in accordance with the Protocol for Highest Risk Cases. Whenever possible, Crown counsel should attempt to ensure that early trial dates are obtained.^{xlix} Specifically, trial coordinators are advised that dates requested for cases involving allegations of violence against women in relationships should be set as early as trial scheduling will allow, given the emotional stress and often dangerous situations which develop in such cases.ⁱ

In spite of this policy directive, survey participants consistently described delays in the court system as a significant issue that negatively impacts the women they work with:

Trial dates for out of custody spousal assaults can be anywhere from 9-18 months from the date of the offence. (Respondent #8)

There are lengthy waits between court dates, with the only available dates being two months apart. I have seen examples of a sexual assault case take several remands, which lead to there being over a year to get a conviction and sentencing. With the sentencing being minimal, it is a frustrating and defeating process for victims. (Respondent #14)

It seems that it takes a long time with many adjournments. This affects women in that they move on and are no longer interested in pursuing the charges and recant as they have moved on or the accused has had time to contact the victim and convince her that all will be okay if she recants. (Respondent #27)

The process is slow and long. While the offender is continuing on with his life, the women are frequently unable to resume life due to the emotional overload and the financial pressure facing them. (Respondent #9)

Research suggests that the longer victims have to wait, the more likely they are to recant or to ask to have charges against an abusive partner withdrawn. A recent American study found that offenders adopt a highly structured approach to diminish the gravity of the offence in the victim's mind, with an eye to ultimately have her agree to recant. Throughout the process the offender paints an "us against the world" picture, a tactic that is particularly effective when women feel unsupported by the criminal justice system.ⁱⁱ Unfortunately, because victim cooperation is the strongest determinant of conviction, this means that the offender is less likely to endure any consequence for having committed an assault.

3. Space and Safety in and around the Courthouse

Advocates and women who have experienced violence consistently raised concerns about emotional and physical safety on the way to court, while waiting at the courthouse, in the court room, and when leaving the courthouse.

For women coming and going alone or with their children, particularly those who are reliant on public transit, walking into and out of the courthouse can leave them feeling very vulnerable. Many women go to great lengths to avoid places they expect to see their abuser and/or to conceal their location from him. Scheduled trips to the courthouse undermine safety strategies put in place by women and turn the court experience into one of insecurity.

Once inside the courthouse, the feeling of insecurity is intensified for some women:

They have to sit in the waiting room with the accused and his family. There isn't a private witness room to wait in that feels safe. (Respondent #27)

Sometimes, the proximity itself leaves women feeling frightened. In other instances women are approached, threatened or asked to drop charges as they wait to be called into court.

The offender and his family can intimidate the woman in the court or hallways. (Respondent #31)

Feelings of insecurity are intensified by relations of power that continue to play out within the court room:

It can be very difficult for a woman who is abused to speak to a judge in a courtroom setting with her abuser present. Generally, these women have undergone years of abuse and so their self-confidence and assertiveness is usually compromised. In addition, stating the nature of the abusive situation in front of other people is unfair and can be humiliating. Most of the time, women are leaving the court feeling humiliated and dejected. (Respondent #17)

Service providers repeatedly raised the issue that while there are provisions that would allow vulnerable witnesses to testify by video from another room, these provisions are rarely used in cases of domestic violence or other power-based crimes perpetrated against adult women:

... Often when women want privacy screens or to appear by video they are discouraged. (Respondent #14)

...Special provisions such as testifying from another room are really not available to any women over the age of approximately 12. (Respondent #30)

Survey respondents did mention that sheriffs and other security staff within the courthouse can do a lot to make women feel comfortable and to discourage the abuses from making contact. However, the responsiveness of security staff varies:

In Victoria the sheriffs are excellent and very supportive of women victims/witnesses- always accommodating of any special needs. (Respondent #9)

Sheriffs should be trained to be respectful to all women regardless of race and/or presentation. Especially transgendered women. (Respondent # 25)

For women survivors of violence, the major reason for engaging with the criminal justice system is not retribution, it is to keep themselves and their children safe. If the act of attending court undermines the safety strategies women rely on, they are not likely to feel confident in the ability of the courts to keep them safe outside of the courtroom. This situation means that women are less likely to follow through as witnesses, or to engage the criminal justice system in the event of future violent incidents.

4. Litigation Abuse

There are cases where abusers actively use the justice system as a tool to continue to emotionally abuse and control an ex-partner. The family system in particular is used in this way, but there is significant overlap, and the courts can be a place where an abuser restrained by a no contact order can continue to have contact.^{lii}

An offender can have an ongoing criminal matter proceeding directly relating to violence against the woman and then be in family court applying or having access to his children thus having an avenue by which to further terrorize her... (Respondent #23)

As legal scholars Jaffe, Crooks & Bala explain in a report presented to the Government of Canada, perpetrators may use litigation as a form of ongoing control and harassment.

Litigation exacts a high emotional and financial price for abused women already overwhelmed with the aftermath of a violent relationship. Some authors have suggested that some batterers have the presentation and social skills to present themselves positively in court and convince assessors and judges to award them custody.^{liii} In many cases, perpetrators are self-represented, heightening the possibilities for abuse through berating a former partner in cross-examination.^{liiv}

Offenders will misuse the court processes, filing a number of unnecessary applications to vary or modify orders to stretch out the duration of the proceedings. The lack of legal aid available to women in drawn out family law situations, or who will be witnesses in a criminal trial, leave women especially vulnerable to this form of abuse.

ii. Alternatives

Specialized domestic violence courts have been developed in response to many of the issues raised by participants in this study. The administration of Canada's federal criminal code occurs at the Provincial level, "[t]hus each province, and indeed municipality within provinces, have selected different strategies for specialization."^{liv} We will describe a number of specialized court models that are currently operating in Canada.

1. Winnipeg Family Violence Court

Winnipeg has the longest running specialized domestic violence court in Canada. The full trial court with dedicated courtrooms and specialized police teams, Crown Counsel and probation officers began operations in 1990. The court also employs a women's advocacy program. The Winnipeg court hears all cases in which the accused is in a position of trust, and/or the accused's victim is dependent on or related to him. These frequently include instances of alleged partner abuse, child abuse and elder abuse. The Court uses the practice of "file ownership", which means the same prosecutor will handle the same case from beginning to end, even if it goes to a higher court. A distinguishing feature of this court is the approach to effectively intervene in the cycle of violence and act in the victim's best

interest, rather than seeking conviction. Moreover, Crown can negotiate with the victim about what outcome they would like to see, a process known as “testimony bargaining.” With respect to sentencing, the court’s specialization has encouraged support for the victim and added emphasis on abuser treatment.

2. Alberta: Calgary’s HomeFront Domestic Violence Court vs. Edmonton’s trial court

Calgary’s HomeFront Domestic Violence Court is a first appearance court where the accused appears shortly after being charged. The central goal of the HomeFront court is to have fast and efficient resolution of cases and to provide treatment to victims and offenders as soon as possible. The longer the delay the greater the likelihood is that the evidence is lost and the cycle of violence continues. The accused can have assault charges stayed and proceed by way of peace bond if they are considered a low-risk of re-offending, acknowledge their behaviour and are willing to participate in a counseling program. Caseworkers provide victim support and present the victim’s wishes to the court team prior to the docket court.^{lvi}

Edmonton’s domestic violence court was established in 2001.^{lvii} The court only deals with cases that are already set for trial.^{lviii} Edmonton has a specialized follow-up team, which consists of a police officer and a social worker.^{lix} The police officer and social worker follow up calls that were originally taken by a regular responding officer.^{lx} Specialized teams are also used to respond to “serious offences against which charges have been laid and which are before the court”.^{lxi}

3. Regina-Specialized services without a specialized court

Regina has several elements of a specialized criminal justice response to domestic violence without having a specialized court. These elements include offender treatment programs and deep integration with family services of Regina’s Domestic Violence Program.

Family Service Regina’s Domestic Violence program is a non-profit, non-government agency. The agency offers safety planning, information, support and advocacy. All domestic violence police reports, regardless of whether there are charges laid, are forwarded to the program or followed up on. Contact is made as soon as possible because there is recognition that there is a short timeframe during which women are more likely to engage with a supportive intervention.

This program takes a holistic approach, which includes practical safety strategies and actions to make them work. Measures may include moving the household, providing transportation, helping the family obtain a telephone or assistance in obtaining protection orders. The program focuses on ensuring that basic needs like food, shelter, help with child welfare issues and legal advice are provided. In addition, it includes a specialized victim services component that assists victims through the criminal justice process. This support includes the provision of transportation, accompaniment, and same-day information about the case and status of the accused (including providing physical copies of orders to the victim). Moreover, the relationship does not end at sentencing and continues to provide information about the status of incarcerated offenders to the victim.

4. Ontario’s Domestic Violence Court Program

Ontario’s Domestic Violence Court (DVC) program has established specialized domestic violence courts throughout the province. This program uses the first two specialized domestic violence courts in that province - the North York and Toronto K courts—as models for the rest of the province. The North York court is based on an early intervention model, which seeks to provide support to victims,

ensure that offenders are held accountable for their actions, and provide treatment to break the cycle of violence. The Toronto K court provides a “coordinated” or “enhanced” prosecution response. A key part of the Toronto K court model is to collect evidence and focus on victim co-operation to aid in the prosecution of the offender. The police play a critical role throughout the process since they must lay charges regardless of the victim’s wishes. Furthermore, the K court provides counseling services to abusers and runs a Victim/Witness Assistance Program (VWAP). Both models have been incorporated in all specialized courts in Ontario with the early intervention model being used with first-time offenders and the coordinated prosecution model with more serious or repeat offenders.

5. Integrated Domestic Violence Court - Toronto

In Canada, most dedicated domestic violence courts only handle criminal proceedings. While there are often related family law issues, such as custody and access, they cannot be dealt with in the specialized court. The idea behind the Toronto integrated domestic violence court (“IDVC”) is different than the common usage of the term “integrated” in domestic violence court literature. Rather than referring to a protocol between police and crown, integration in this context refers to a process where one judge will hear and manage a family’s parallel criminal and family proceedings. Procedurally speaking, the cases are not combined. Instead, one judge hears both the family and criminal matters in sequence. The jurisdiction of the court is limited to short trials. Where a full trial is required in either proceeding, it will be moved out of the integrated court.^{lxii} Originally, cases could only be moved to the Toronto’s integrated court with the consent of both parties. In March of 2012, the protocol was amended such that all domestic violence summary conviction charges scheduled for appearance at Old City Hall, Toronto may be heard by the IDVC as long as the accused is not in custody and is a litigant in a related *Children’s Law Reform Act* or *Family Law Act*.

6. Yukon’s Domestic Violence Treatment Option (DVTO)

The Yukon’s Domestic Violence Treatment Option (DVTO) court is located in Whitehorse. It provides an alternative justice intervention procedure that includes therapeutic interventions in cases of intimate partner violence. The DVTO was introduced to address the common concern that the formal justice system did not properly respond to domestic violence cases and did not meet the victim’s needs. Through this program, the offender and the victim can choose a therapeutic treatment instead of traditional sentencing in court. First court appearances are set about two weeks after the incident. At this time, the alleged offender can choose to take responsibility for his actions and, if found to be eligible, will get the opportunity to participate in therapeutic treatment. If the abuser decides to plead not guilty, the case is moved through the regular court process.

7. BC Examples - Duncan Domestic Violence Court

The Duncan Domestic Violence Court is BC’s only specialized domestic violence court. When establishing the Court, partnerships were set out as a key operating function. The partners included: a judge, Crown Counsel, RCMP, probation and corrections officers, victims’ services (community based, RCMP and First Nations), a Native Courtworker, and a social worker from the Ministry of Children and Family Development (MCFD). All of the partners were governed by responsibilities and had to maintain communication with each other based on protocols set out by the court. For instance, Crown Counsel is required on domestic violence files to make early and frequent contact with the victim. They are also required to refer her to Victim Services, review her social support network and discuss her safety and the safety of her children. Set timelines have been developed for all steps in the criminal justice process to help reduce the duration of proceedings.

Sexual Assault Courts

The term *sexual assault* is used to describe any involuntary sexual act in which a person is threatened, coerced, or forced to engage against their will, or any sexual touching of a person who has not consented. In legal terms, sexual assault is the name of a statutory offence in various jurisdictions, including Canada.

Sexual assaults occur inside and outside of intimate partner relationships and are part of a spectrum of power-based crimes against women. A recent study from the US National Institute of Justice found that two thirds of women who had been physically assaulted by an intimate partner had also been sexually assaulted by that partner.^{lxiii} Regardless of whether the perpetrator is an intimate partner, an acquaintance or a stranger, sexual assault convictions are very rare in BC. WAVAW Rape Crisis Centre has been working women survivors of sexual assault since 1982. A recent review of 526 closed case files revealed that:

- 62.1% of women accessing their services reported the violence to police
- 11.8% of cases resulted in charges approval by Crown
- 6.5% of cases went to trial
- 4.6% of cases resulted in a conviction



These numbers raise important questions about how domestic violence courts can better serve women and hold men accountable where there has been sexual violence in a relationship, as well as about how to better meet the needs of women who have been sexually assaulted outside of an intimate partner relationship.

Sexual assault courts are still a relatively new development when compared with domestic violence courts. According to the Center for Court Innovation: “This is unfortunate because the problems with applying a generalist approach to the adjudication of sex offense cases are many: lack of specialized

knowledge for decision-making, lack of adequate communication and coordination between the court and stakeholder agencies, lack of system accountability, and the resulting dissatisfaction of many victims with the criminal justice process.”^{lxiv} In BC, Crown Attorneys receive no specialized training for working on sexual assault cases despite a BC Crown policy manual directive to ensure that sexual assault files are handled by Crown with specialized training.

In January of 2006, Nassau, Westchester and Oswego Counties in New York became the first three jurisdictions in the country to pilot specialized Sex Offense Courts.^{lxv} The Courts hear cases from their inception and early identification through disposition, and monitoring. Best practices in New York Sex Offense courts include the following core components:

- Keeping victims informed
- Scheduling cases promptly
- Dedicated, trained Judge
- Supervising defendants continuously
- Implementing additional judicial monitoring of cases post-conviction/plea
- Building strong relationships with service providers
- Coordinating with probation departments
- Convening regular meetings with criminal justice agencies and service providers
- Providing court personnel and partners with education and training

Defendants do not opt-in to the New York Sex Offense Courts. The courts are not designed as diversion courts or treatment/rehabilitative courts. Because the New York State Sex Offense Courts are the first of their kind in the United States, research and evaluation plans are in place to determine the effectiveness of these new strategies.^{lxvi}

ix. Recommendations

We acknowledge that there are valid (and sometimes conflicting) concerns with a number of domestic violence court models including:

- Marginalizing the issue of violence against women in relationships and, more generally, gender-based violence.
- “Decriminalizing” violence against women as a result of a focus on therapeutic interventions.
- Intensification of some of the concerns related to traditional criminal justice interventions, including women’s loss of control over the process.
- Under-resourcing compared to the mainstream criminal courts.

Despite these concerns, in the current context, it is recommended that a specialized court be developed, either within an existing courthouse or in a discreet facility.

The following elements must be considered when developing a dedicated court:

A. Creating an appropriate space

- i. Women do not feel safe in the various courthouses they attend. Greater emphasis is needed on ensuring that women do not have to interact with the alleged perpetrator, his family or his support network when arriving at, waiting for and leaving the courthouse. This issue must be an immediate priority whether or not new specialized courts are developed in BC.
- ii. We recognize that space is an expensive commodity and recommend that BC look at models, including Duncan, where particular days are set aside for hearing violence against women cases.

B. Developing a mandate

i. As outlined above, there are a broad range of dedicated court models within Canada. Our research, and the literature on specialized domestic violence courts, makes it clear that the most element of any dedicated court is that it is equipped with a mandate that prioritizes the needs of victims over system goals of securing convictions. A number of key considerations need to be addressed in designing a specialized court:

1. Scope of charges and relationships

- a. The scope of cases heard by a specialized court should include all intimate partner violence, including sexual violence and cases involving couples not married or living common-law.
- i. There is also a need for a specialized approach for prosecuting sexual assaults that occur outside of intimate relationships. This could also be integrated into a specialized court.
- ii. Approaches must be considered for intimate partner violence in same sex couples.
- iii. There must also be a mandate to look at stalking and criminal harassment both inside and outside of intimate relationships.
- iv. BC should consider a model that increases collaboration between the family law and the criminal law system, including the IDVC model in Toronto.

2. Staffing

- a. The Winnipeg Family Violence Court is the longest running dedicated court. BC should look to their model of employing specialized Crown Counsel and probation services as well as operating an onsite women's advocacy program.

3. Timelines

- a. BC's only specialized court in Duncan sets timelines to be adhered to at all steps of the proceeding. A new dedicated court must develop specific timelines and strategies to meet those targets that balance the rights of the accused, the gathering of evidence and the need of women to meet with Victim Services workers.^{lxvii}

4. Stages of the criminal court process

- a. Specialized courts in Canada vary widely in what they are mandated to hear. Courts like the Downtown Community Court can only perform sentencing where an accused pleads guilty, as the court does not hear trials. A specialized court should not be limited in this way. It should hear cases from the pre-trial stage through to the trial stage where that is the trajectory of the case.
- b. Crown should adopt the file ownership model used in the Winnipeg Family Violence Court to ensure that there is continuity even if the case moves up to a higher level of court and in the case of breaches and new charges that arise after the court has ruled on the case.

5. Integration with family court

- a. Where possible, a specialized court should jointly hear criminal and family matters, as in the model of Toronto's Integrated Domestic Violence Court. In Toronto, this integration is limited to pre-trial proceedings as a result of jurisdictional issues. The limitation of this model is that both parties need to agree to have the matters heard together.

6. Victim/witness testimony protocols

- a. It is well established in the literature on violence against women and the criminal justice system that women have negative experiences testifying in court. The following would improve the experience for women:

- i. Police and Crown must gather evidence beforehand that would minimize reliance on a woman's testimony.
- ii. Crown must be allocated adequate time to work with women to prepare them for questioning.

7. Accessibility

- a. Attending court can present a logistical and financial challenge for women. Furthermore, women who need to attend court are often parenting alone.
- b. A standard "checklist" for use by Victim Services workers should be developed which considers what women require to ensure:
 - i. Their safety plan for attending court
 - ii. Care for their children
 - iii. Any economic hardship associated with attending court is avoided.

Other legal concerns, such as immigration, child protection or custody, are not interfering with a woman's ability to engage in the process.

- c. Furthermore, provisions should be put in place for women who are more comfortable speaking in a language other than English and for women with a range of needs, including women with disabilities.

RACHEL'S STORY

Rachel is a young mother of two who experienced several years of physical and emotional abuse at the hands of her former partner. At the time of the incident she was simultaneously involved with the criminal law system as a victim and in the family law system where she was dealing with ongoing custody and access issues. Rachel has no family in British Columbia and her support network is limited to her domestic violence worker at a neighbourhood house. When she first opened up about the abuse, she would talk to her ex-partner's mother about what was going on in the relationship. While she was initially sympathetic, Rachel eventually realized that she was minimizing the abuse, making excuses for her son, and attempting to influence Rachel's decisions about whether to leave the relationship, pursue child support and testify in court. Eventually Rachel cut off contact with the mother. Rachel had confided in her partner's mother that after her second child was born, and while the abuse was escalating, she had become depressed and that her doctor had prescribed anti-depressants. Rachel did not have a lawyer and court appearances, whether for the family or the criminal issue, were very stressful (especially because her ex-partner always had someone with him). On the day Rachel was to testify in criminal court, she was especially nervous because her advocate couldn't be with her. She saw her partner's mother, who approached Rachel, gave her a hug and told her she wasn't mad at her. At first Rachel felt relieved, she continued, "I know you weren't trying to cause trouble, we are going to tell the judge that you have a mental illness and if you admit that it was your medication and your mental problems that made you cause these problems and hurt your family, you won't be in trouble and your family can get back together."



3. Court Professionals: Crown Counsel, the Judiciary and Victim Services

The court system is often described as impersonal and bureaucratic. However, women who have been through the court system, and service providers who work with them, have highlighted the impact that individuals working within the system can have in terms of making women feel comfortable and supported. In particular, the approach, knowledge and attitude of Crown counsel, judges and Victim Services workers were identified as important factors in terms of women's experiences and satisfaction with the outcomes of their case.

1. Crown Counsel

BC's Violence Against Women In Relationships (VAWIR) policy explains that Crown counsel exercise a quasi-judicial function under our system of law, in that Crown counsel is responsible for the decision to proceed with charges in a case. Although Crown does not officially take direction from women in terms of whether and how to proceed with a case, both women who are involved with the courts as victims and service providers recognize that the way Crown counsel approach their work with women victims can have an effect on women's experience with the courts, the outcome of the case, and ultimately on women's long term safety and well-being.

A theme that emerged from the surveys and in interviews was the importance of working with Crown counsel who understand the dynamics of violence against women in relationships and who make time to connect with and listen to victims. Currently, advocates and other service providers who work with women feel that there is a lack of consistency among Crown lawyers assigned to domestic violence cases:

A theme that emerged from the surveys and in interviews was the importance of working with Crown counsel who understand the dynamics of violence against women in relationships and who make time to connect with and listen to victims. Currently, advocates and other service providers who work with women feel that there is a lack of consistency among Crown lawyers assigned to domestic violence cases:

Each Crown is different. Some are excellent and some dismissive and unconcerned. (Respondent #27)

Specific Crown are excellent with victims of relationship violence. However, this is not the case with all Crown counsel. Some have worked for many years and are bitter and do not support women in an effective manner. Others are young and inexperienced in the impact of violence within a relationship. (Respondent #4)

[Crown are] excellent, mainly very supportive and well educated on issues of violence against women and the accompanying complexities (Respondent #8).

[Crown have a] preference to make the process easy for them, they often drop charges that make the difference between summary and indictable, despite women's admissions that they are frightened (Respondent # 31)

One survey respondent noted that in her community there are some excellent Crown prosecutors, two of whom sit on the Violence Against Women in Relationships Committee and support the idea of a specialized court. However, because there is not a specialized court, not all women benefit from working with these particular Crown counsel.

Survey respondents note that, not only is there a lack of consistency in the approaches of Crown from case to case, there is also sometimes a lack of consistency on a single file:

There is no consistency in the Crown office. Files change hands weeks before the trial and some Crown will drop cases leaving women feeling vulnerable and unsupported. (Respondent #20)

Some survey respondents explicitly recognized that addressing issues such as files changing hands, lack of time to meet with victims and decisions to drop charges are not always within the power of individual Crown to control, and noted that many Crown are doing their best within the system limits. Currently BC's VAWIR Policy directs trial coordinators to take steps to minimize file transfers from Crown to Crown unless the Crown and victim are consulted. However, files continue to be transferred, according to survey respondents.

Perhaps more importantly, from the perspectives of survey respondents and women who were interviewed, Crown Counsel are not generally able to spend a sufficient amount of time with women throughout the process. Women who are being called as witnesses report not being able to speak with them until minutes before the trial or hearing is set to begin:

Many women do not get a chance to talk to Crown or ask questions until the morning of Court. Many women feel they do not get a say in the DCC [Downtown Community Court] process at all. (Respondent # 31)

Taken together, a lack of understanding of the dynamics of violence against women, changes of counsel and lack of communication between the victim and the Crown all contribute to women feeling powerless, confused and unheard as they go through the court process.

2. Judiciary

Judges play a central role in setting the tone in the courtroom and in the outcome of criminal proceedings. However, BC's Violence Against Women in relationship policy is silent on the issue of judicial training and practice guidelines.

Survey participants report that there are marked inconsistencies in terms of how various judges relate to victims, the steps they take to make women feel comfortable and how attentive judges are to the dynamics surrounding the particular criminal incident that resulted in a charge against the offender.

Some are excellent. Many more, I feel, need more up to date education on the issue. (Respondent #8)

[Judges] deal with the presented issue and don't really understand the dynamics of the whole case. (Respondent #7)

The judge can have a significant impact on women's experience with the court system as well as their safety outside of the courtroom:

Some are fearful of appearing. Others are frustrated at the system because judges do not understand the issues around domestic violence. Some are searching for lawyers they cannot get through legal aid... [t]hey feel they are not being heard and/or dismissed because they do not use the language or understand the process. Other are simply petrified because the idea of court is so bewildering and never empowering. (Respondent #7)

It is the luck of the draw. Recently a judge told an abusive husband that he was free to go to the transition house to pick up his children for a visit. (Respondent #9)

Some get domestic violence, some don't. We had one case where a judge ordered [child] visitations with the abuser to happen at the safe house! (Respondent #17)

Differences in the judges' analyses can result in inconsistency from court date to court date on the same case. Where this inconsistency extends to how breaches of an order are treated, women's safety and security can be impacted.

3. Victim Services

Appropriate support services are essential for assisting women who have been victims of domestic violence to develop effective safety plans, stay informed about the criminal justice process and prepare for the court experience. BC's VAWIR policy states that all victims should be advised of the availability of victim services and identifies clear referral policies depending on the resources available in a given community.

In spite of well-developed protocols, some women continue to fall through the cracks. Survey respondents and women who shared their personal stories all had consistently positive feedback about the role of victim services if that connection was made. Unfortunately, that does not always happen. Some respondents explained why some women might not be connecting with victim service workers:

[victim service] is not consistent and difficult in complex cases involving family law or MCFD. MCFD, Family Court and Criminal Court do not all necessarily have the same information or position on what should happen next. (Respondent #21)

In response to the question, “Are women kept informed throughout the process?”, victim services workers were identified as an important source of information, thus also serving an important safety role:

Not always, it always improves greatly though when the women connect with a Victim Services worker. (Respondent #34)

Only when a connection has been made by an advocate to Crown and victim’s safety unit, or after a referral to the domestic violence unit. (Respondent #30)

Where a connection to a victim service worker is not made, other service providers often try to fill the gap, regardless of their particular mandate:

We try to keep them informed as much as possible. We usually look to the lawyers to help us as they are more knowledgeable about the court system. Our objectives are always for the women to be as aware as possible, to be empowered in their own case. (Respondent #17)

With the support of an advocate, otherwise there is not a lot of communication, which can be a barrier for most women. (Respondent #14)

Our organization ensures that happens, without our involvement it seems sporadic. (Respondent #27)

Unfortunately, we do not have any information on the experiences of women who are not connected to advocacy services. We do know that all women who have experienced violence need up-to-date information about the status of the case. Being informed allows victims to maintain a sense of control and engage in meaningful safety planning. Consistent and easily accessible victim service workers whose roles are recognized as equally important as that of the police or lawyers in the functioning of the justice system, and who are trained to understand the complexity of women’s cases, have an integral role to play in meeting women’s needs in this regard.

ii. The Alternatives

1. Crown Counsel

Advocates from communities with dedicated Crown and domestic violence units within the police report that there is more support for women. While this can happen independent of a domestic violence court, it is often an explicitly mandated feature of domestic violence court models. One model is called vertical prosecution; this means that crown attorneys who specialize in domestic violence will prosecute a case if it proceeds to a higher level of court, even if there is no domestic violence court. Another model is Crown ownership, which includes vertical prosecution but also means that the same prosecutor will handle the person’s case if he/she comes back for a second or third offence over the years. This helps to address the single incident focus.

a) Crown Counsel at the Yukon Domestic Violence Treatment Option (DVTO)

In Whitehorse, both Legal Aid and the Crown’s office have assigned specific lawyers to the DVTO sitting of the court. This facilitates the growth of expertise and provides continuity as the same counsel deals with all the domestic violence cases brought into the court. The counsel on duty uses the court sitting as a circuit point. This means that they assess the accused’s eligibility for legal aid at the initial sitting so as to avoid further adjournment and delays.^{lxviii}

b) Crown Counsel and the Winnipeg Family Violence Court- Specialized Crown with File Ownership

The Winnipeg Domestic Violence Unit is made up of 17 Crown attorneys who specialize in the prosecution of all Winnipeg domestic violence cases. They have in place a system of ‘file ownership’, which means that the same prosecutor will handle the same case even if it proceeds to a higher court or to an appeal court, particularly if the accused reoffends. In this way, the prosecutor becomes very familiar with the behaviour of the accused. Moreover, the victim will only have to deal with one prosecutor, and will therefore not have to repeat the narrative of their experience of abuse several times.

Prosecutors in this unit occasionally do circuit court, meaning that they prosecute cases in communities outside of Winnipeg that have a visiting rather than a resident court. Because many of the cases in the circuit court involve domestic assaults, smaller communities benefit from a specialized prosecutor when they ordinarily would not.

2. Judiciary

In Canada, there are fewer examples of dedicated judges than of dedicated Crown. When Winnipeg’s specialized court was first in operation, 14 selected judges sat in the domestic violence court. But, since 1992, all Provincial judges have rotated through the domestic violence courtrooms.^{lxix} There are, however, some examples locally and internationally of specialized justice-system approaches to addressing cases involving violence against women by an intimate partner.

a) Buffalo Domestic Violence Court

The Buffalo Domestic Violence Court ensures that the same judge presides over a case at each stage of the process. This approach is based on the principle that offender accountability is not fostered when, at any given hearing, the offender may find himself in front of a different judge. In Buffalo, there was an 80% increase in the rate of compliance with court orders after it began functioning under the one judge per case principle.^{lxx}

b) Brooklyn Felony Domestic Violence Court

The Brooklyn Felony Domestic Violence Court provides a prime example of judicial intervention. In order to increase defendant accountability, the Court strictly monitors defendant compliance with court orders. Defendants who are out on bail are required to appear before the Court periodically in order for the judge to check on their status and progress. They are also under intense supervision by specially trained probation officers and are required to appear in court so that the judge can personally confirm their compliance.^{lxxi} Beyond the courtroom, the presiding judge holds a monthly meeting with all parties involved in the process (police, prosecutors, defense attorneys, parole, corrections, social services, treatment providers, etc.) in order to discuss how to improve performance at a system-wide level. Through this more active approach, judges help to foster communication between all parties and to build a more responsive judicial system that is able to effectively respond to the needs of citizens.

3. Victim Services

a) Calgary’s HomeFront Domestic Violence Court

Calgary’s HomeFront court caseworkers contact victims within 24 hours of charges being laid to provide up-to-date information about the accused person’s case. Caseworkers provide help with safety planning, outline the court process and make legal referrals. This is an internal justice system response triggered whenever charges are laid and the accused appears at the HomeFront court. The program is a short-term intervention. Women are offered assistance and information, either in person at the first appearance at the courtroom, or by phone after charges have been laid. The interaction is often brief, but does enable the worker to determine the wishes of victims with respect to the accused, make referrals and provide information about how the case is proceeding.

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the courtroom, or by phone after charges have been laid. The interaction is often brief, but does enable the worker to determine the wishes of victims with respect to the accused, make referrals and provide information about how the case is proceeding.

In a study based on interviews with 42 women, 30 remember being contacted, 4 did not and 8 were unsure because of the number of calls they received from other organizations such as Victim Services and mandated perpetrator treatment check-ins.^{boxii} In responding to the question, “was the HomeFront Caseworker helpful?” 15 answered in the affirmative, 5 had mixed opinions and 7 did not find the workers helpful. For those who found it helpful, it was the information that support workers provided about the progress of the case and what to expect as they moved through the court process that was most valuable. Some respondents went so far as to say that they would not have testified or attended court if it were not for the program. Concerns from women who did not find the service helpful included the need for more emotional support and feeling that they were not in fact provided with up to date information. Moreover, one woman noted that she was confused because there were several agencies contacting her.

b) Family Services Regina’s Domestic Violence Program

Family Service Regina’s Domestic Violence program is a non-profit, non-government agency that operates without a specialized court. The agency offers safety planning, information, support and advocacy. All domestic violence police reports, regardless of whether there are charges laid, are forwarded to the program and follow-up calls are made. Contact is made as soon as possible due to recognition of the short timeframe in which women are more likely to engage with a supportive intervention. (This program takes a holistic approach, which includes practical safety plans and actions to make them work, such as moving the household, providing transportation, helping the family obtain a telephone, or providing assistance in obtaining protection orders. The program focuses on ensuring that basic needs like food, shelter, help with child welfare issues and legal advice are available. Family Services Regina’s domestic violence program includes a specialized victim services component which assists victims through the criminal justice process, including providing transportation, accompaniment and same day information about the case and the status of the accused, as well as providing physical copies of orders to the victim. The relationship does not end at sentencing and continues to provide information about the status of incarcerated offenders.

iii. Recommendations

Participants in our online survey rated specialized staff as the most important requirement for an effective domestic violence court. Research suggests that careful training and protocols for personnel, adequate resources and integration of community and legal responses are all critical for successful criminal justice system interventions in responding to violence against women. A dedicated domestic violence court will require a shift in orientation and new measures of success that emphasize building relationships and long-term safety over convictions. To that end, it is necessary to develop teams of specialized professionals who work together, understand and respect each other’s roles, and who operate from the shared understanding that women are not responsible for male violence. These professionals must have a deep understanding of dynamics of power and control, as well as the cycle of staying, leaving and returning that characterizes abusive relationships. They must also understand the theory and practice of woman-centered safety planning.

A. Specialized Crown

The important role of Crown Counsel is prominent in both the survey responses for this project and in the literature on domestic violence courts. As such, we recommend the development of specialized Crown positions. In order to best meet the needs of women who have experienced violence we also recommend the following practices:

- i. Crown Counsel must be available to meet with women early on in the process in order to share information and solicit meaningful input. Meeting with a woman early on will provide an opportunity to discuss her goals and her needs, and to address any challenges or concerns that may prevent her from participating in the court process.
- ii. Crown Counsel should adopt the practice of file ownership where a single Crown works on a file from start to finish. This allows for the Crown to get to know the victim and to become familiar with the pattern of behaviour exhibited by the accused. While specialized Crown would typically work only within the specialized court, it is suggested that they hold onto a file even if it moves up to a higher level of court.

B. Independent legal advice

- i. Even once Crown Counsel are mandated to work in a woman-centered way, arguably there is still a strong role for independent legal advice in criminal cases where a woman is unclear about her rights and responsibilities as a victim and/or witness. There is also an opportunity to provide women with legal advice on issues that are very much related to the abuse, but are not within the purview of the criminal proceeding.
- ii. It has been recommended that a domestic violence court adopt features of Toronto's Integrated Domestic Violence Court, which hears criminal and family cases together. In addition to this, it would be practical to implement having a number of sources of independent legal advice available at the court:

1. Family lawyers versed in family violence issues.
2. Lawyers who specialize in child protection cases. This would be helpful in the context of being in court for a criminal matter, and could help address the lack of integration between areas of law for women survivors of violence.
3. Immigration lawyers who specialize in sponsorship, sponsorship breakdown and who work with women without regular immigration status.
4. An intake representative from the Legal Services Society of BC (LSS) available to meet with women and to help them apply for any legal issues where they are eligible for coverage.

C. Judicial leadership and training

- i. In order to preside over a dedicated domestic violence court, judges must have a demonstrated understanding of the dynamics of violence against women in relationships, the context in which discreet "incidents" of violence occur and the need for orders that take into account the realities of a woman's life. Effective judicial training will be critical to ensuring that a specialized court can adequately address a few of the major concerns raised in this study, including unnecessarily aggressive defense counsel practices and litigation abuse.

ii. The National Judicial Institute offers specialized programming for judges on domestic violence. We recommend that this training is expanded and that all judges, whether working in a specialized or generalist court, be given the time required to complete this training.

D. Clarity and choice in victim services

i. Victim services have been consistently recognized as one of the most important elements of an effective justice system approach to violence against women. It is important that a victim-services program, within a dedicated court, include the following elements:

1. The resources and mandate required to be available to women within a short timeframe.
2. Integration with other services, police, probation services and Crown to reduce the number of calls women receive about their case.
3. Women-centered, feminist and empowerment-focused practice.
4. Access to up-to-date information about a woman's case.
5. Training on the multiple legal processes and systems women are involved with.
6. An element of choice for women about who their primary support and contact person will be.
7. Ability to provide culturally competent services to women in their primary language.

4. Court Orders and Enforcement

In recommending the establishment of Domestic Violence Courts in BC, the Representative for Child and Youth makes the case that specialized courts should also strengthen access to protective orders for victims (including children), improve enforcement of orders and result in increasing penalties when orders are breached.

For women going through the court system, a common goal is that an order will be in place that will keep her and her children safe and allow them to move forward with their lives. Women often feel the orders that are made and the conditions placed on abusers are not sufficient to protect them. There is also a lot of confusion among women about what a peace bond or no contact order means in the context of other orders from family court. Finally, there is significant frustration with the lack of enforcement of orders, the amount of onus placed on women to ensure that orders are not breached and the minimal consequences for offenders who are found guilty of repeated breaches.

1. Sentencing and conditions

There are many possible outcomes when the criminal justice system becomes involved in a domestic violence case. In some cases no charges are laid but a peace bond is put in place restricting contact between the two parties. Where the offender either pleads or is found guilty, he may be given a sentence to serve in the community and a list of conditions to abide by. In other cases, the offender receives a jail sentence, after which he is released back into the community with a set of conditions to abide by. Conditions can include a prohibition on direct or indirect contact with the victim, abstaining from drugs and alcohol, a ban on owning or carrying weapons or mandated attendance at a specific rehabilitative program.

2. Convictions and conditions

Advocates who took part in this project noted that even where there is a guilty plea or a finding of guilt, the sentence or conditions imposed on the abuser rarely reflect the impact of the abuse on the woman's life or protect her against future violence.

... for "lower level offences" or for offenders with no criminal record I think they are often surprised by the "lightness" of sentences. (Respondent # 8)

Women do not feel safe with the process or the sentences Crown recommends, yet their disclosures of not feeling safe are minimized or ignored. (Respondent #31)

Some advocates report that no-contact orders are used instead of jail even when the offender has a lengthy history of breaches. Survey respondents also noted that women report feeling frustrated when crown makes a deal without consulting them.

3. Peace Bonds

A peace bond is a court order designed to provide a measure of preventative protection to someone who is at risk of harassment or violence from another person. A peace bond orders a person to be of good behaviour and obey conditions put into place by a judge, and is valid for up to a year. Peace bonds are sometimes recommended where there are genuine safety concerns but police believe that there is not enough evidence to secure a conviction. Peace bonds are also used in some cases where a woman does not want to take part in a trial.

In some cases, women feel pressure to accept something less than a criminal conviction, despite the feeling that the peace bond did not really protect them and many survey respondents noted that the one-year time limit is not adequate for some women in abusive relationships.^{lxxiii}

...peace bonds are not responded to by RCMP in the same manner no-contact orders are, women are given a false sense of security with a peace bond. (Respondent #29)

I think women are generally satisfied knowing that they have some form of legal protection - 1 year often seems unsatisfactory and dangerous. (Respondent #27)

In other cases, women agree to a peace bond as a means to avoid testifying. However, peace bonds are supposed to be used where there is a lack of evidence to secure a conviction. Advocates report that it can be difficult for a woman to have a peace bond put in place if the police were not called to the scene or recommend charges.

4. Interpreting and Navigating Orders

Survey respondents noted that in many cases women are not empowered to make use of the protection orders that are issued:

The women I work with are generally unaware of the types of orders issued by the court and they rarely have a copy of the order issued. (Respondent #1)





Almost all respondents explained that the women they work with have a hard time understanding exactly what conditions have been imposed on the offender, what protection the order provides and how to go about enforcing the order:

Women generally have no idea of the difference between peace bonds and restraining orders.
(Respondent # 1)

Several advocates described a lack of specificity in the conditions placed on offenders, which make it difficult for women to feel safe or to know when they can call police. They raised several issues, including the lack of specific addresses or physical distances in the terms of order, but the most pressing issue they identified is the failure of orders to deal with custody, access or other issues relating to the children. There was a clear sense among survey respondents that some men use loopholes in the conditions laid out in the order to maintain contact with the victim directly or indirectly through the children:

The process takes too long. Not often taking the children in mind and what their decisions mean for the children. (Respondent #7)

Often children are not named in an order when they should be, also the workplace, children's schools and/or residence are not listed. (Respondent #23)

Women are generally dealing with multiple legal issues simultaneously, and the problem of unclear orders is compounded when there are orders in place from different proceedings:

We often feel as though the left hand never bothers to find out what the right hand is doing which can make it very challenging for a victim to interpret and plan accordingly. Sometimes even police are confused about which order should take precedence. (Respondent #8)

Often, I find the wording of the orders to be ambiguous and left for interpretation, particularly where there are competing orders relating to custody and access of children etc. (Respondent #8)

Survey respondents note that a large part of the problem stems from the fact that family court orders rarely address violence against the mother or abuse of the children by exposing them to violence. Some of these issues may be dealt with through the introduction of BC's new *Family Law Act*.

The problem of inconsistent orders is intensified in cases where the child welfare system is involved with the family. In some cases, a child protection worker informally requests that the mother take responsibility for preventing the offender from having contact with the child, but does not offer support in having the family law order or conditions of a protection order amended to support the woman in preventing such contact. Given the lack of consistency and clarity in the orders, women are often unsure about their legal rights and responsibilities.

While it is outside the scope of this report, it is also important to note that, in Canada, responsibility for family law is shared between the Provincial and Federal government. The superior court has exclusive jurisdiction in the area of divorce law and property matters (e.g., division of the matrimonial home). Provincial/territorial family law legislation covers all matters related to the separation of unmarried couples as well as child support, access and custody in cases of married separating couples where no divorce is sought. This means that, as well as navigating multiple areas of law, some women are also navigating two levels of court (each with different protocols and governing legislation) in order to resolve family law

matters. As well as being one of the only jurisdictions in Canada without a specialized domestic violence court, BC is also one of the only jurisdictions that has not followed through on a 1974 recommendation of the Law Reform Commission of Canada for the development of Unified Family Courts to consolidate jurisdiction over all family law proceedings in order to simplify the process.^{lxxiv}

5. Enforcement

When women call police to report a breach of an order they can end up feeling like they have come full circle, as many of the issues that came up when they originally reported the abuse arise again. Survey respondents and study participants explained that the police response to a breach of a court order is insufficient.

I find that generally speaking, no contact orders and peace bonds are only as good as the paper they are written on.... [i]n regards to calling in a breach of conditions, it all depends on the officer who is on duty whether this call will be taken seriously or not. (Respondent #4)

Despite the condition that their ex-partner not approach or contact them, women feel that they are not taken seriously when they report breaches that do not involve otherwise criminal behaviour:

The women often continue to feel afraid that their ex-partner can harm them. More than 1 woman has attempted to get help & been informed that the police cannot act unless he does something concrete. This is not helpful -- especially since once he has "done something" it may be too late to report. (Respondent # 7)

The end result is that in many cases women stop relying on the order or accessing police to keep them safe:

Women describe frustration at multiple breaches never resulting in suspension of bail and therefore feel like giving up. (Respondent #31)

There is a debate in the literature about the effectiveness of protection orders. "Studies of re-abuse after receiving a protection order have indicated a range of re-offence rates from 12% to 23% to 48% in a two-year follow-up study. In Canada, 25% of women with protection orders reported breaches,^{lxxv} and 50% of women with orders against a stalker reported breaches." Survey respondents explained that a lack of consequence emboldens the offender, making him feel entitled to breach protection orders.

A second problem relating to enforcement of orders and conditions is the lack of programs available for offenders:

Most people are given promising probation orders where they need to attend counselling, life skills [training] etc. but there are no courses for them to attend here. Also no probation officers to really offer support and make sure they are succeeding. The PO here seems extremely overworked. No contact is a joke if there is not a timely court appearance. There are no supports for offenders, no voice for victims. Restorative Justice may be a solution for this. [The] community needs more education and feel more responsibility to making sure family violence is not tolerated. (Respondent #14)

In these ways, both traditional criminal justice interventions such as no contact orders and more therapeutic interventions are not being followed through in practice.

ii. The Alternatives

There are a number of alternatives to address the concerns raised by participants in this study about the granting and enforcement of various protective orders. Many of these concerns have already been addressed in the sections above. We will elaborate by looking at some of the specific ways that various specialized courts address the issues of creating relevant orders, even in the absence of a conviction and of monitoring compliance.

1. Stay with Consequences

Calgary and Winnipeg's Domestic Violence Courts both use "stays with consequences" as a method for prompting an early intervention with offenders the court deems to be "low risk" and as an alternative to vigorous prosecution. At Calgary's Homefront Court this takes the form of a stay with a peace bond and/or counselling. In Winnipeg's family violence court the practice is to stay proceedings only after the accused has successfully completed counseling. While this does raise concerns about the decriminalization of domestic violence, it must be noted that Winnipeg has a very similar rates of stays in domestic violence cases to Regina where the "stay with consequences" approach is not used.

2. Court-Mandated Treatment Programs for Offenders

Treatment of some kind for offenders is, to varying degrees, a feature of most domestic violence courts in Canada. A 2004 meta-analysis of 22 evaluations of domestic violence treatment found no difference between treatment models, but that treatment had a significant effect on recidivism in addition to the effect of being arrested. A study of men convicted in the Winnipeg Family Violence Courts comparing recidivism rates of individuals who received and completed court mandated treatment to those who did not receive court-mandated treatment, found that such treatment did have the effect of reducing recidivism, but the study was limited because it was based only on arrest statistics. A four-site evaluation from the US found that the length of treatment was less important than the amount of time it took to begin treatment.^{lxxvii} Ontario has developed a network of domestic violence courts, some of which use an early intervention model. In Ontario's early intervention model the offender must plead guilty as a condition of being mandated to treatment. An evaluation of the early intervention sites found that case processing times were significantly reduced, more men were pleading guilty as compared to the year before the project was implemented, and victims in the early intervention sites were significantly more likely to report satisfaction with the outcome compared to other victims.

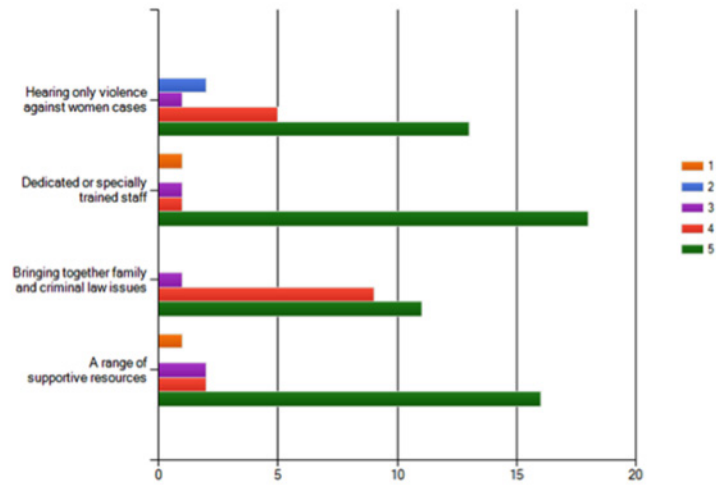
Duluth's Domestic Abuse Intervention Project (DAIP) provides treatment for offenders using models developed by over 200 abused women.^{lxxviii} DAIP is particularly influential in recognizing deliberate motives and strategies behind abusive behaviours that are often otherwise interpreted as impulsive, escalated conflict. A 1987 study showed that victims reported significantly lower rates of physical and psychological abuse when compared to rates of abuse during time periods prior to or during their participation in the project. Subsequent studies in 1992 showed lowered recidivism rates after completing the project.^{lxxix}

ii. Recommendations

A. Consistency between family and criminal court orders

i. BC's new *Family Law Act* has the potential to address some of the challenges women face when they have different orders from family and criminal courts. A specialized court can play an important role in realizing the potential of this change, provided that a specialized criminal court and the family court are working with the same information. Where family and criminal matters cannot be heard jointly, staff from the specialized court should be mandated to brief the family court on the order and the considerations that would have to be made in developing a family law order that meets the physical and emotional safety needs of the woman and her children.

What factors do you think would be most important in designing a court that would work better for women who have experienced violence? 1 means not important, 5 means very important.



B. Specificity in protection orders

- i. Orders must be grounded in the realities of the lives of people who are affected by those orders. Time must be allocated to discussing specific locations and activities that should be explicitly covered by the order. There should be a discussion of custody and access issues and how those will be addressed.
- ii. If the offender is mandated to engage in any programs, judges should know in advance whether those programs are available and what the wait times are for those programs so that orders can reflect that reality.

C. Predictable and effective justice system response to breaches of orders

- i. Advocates and women who have been involved with the justice system note that orders do not protect women if they are not enforced. To that end:

1. Police must be trained and directed to enforce civil protection orders. This is especially important as BC's new *Family Law Act* comes into force to ensure that provisions for criminal court enforcement of protection orders issued under the FLA are well understood.
2. Women should never be asked to justify calling to report a breach and to provide evidence that an additional crime has been committed.
3. Police must be trained to respond to all calls related to breached orders. They must be mandated to take thorough reports and to report these incidents to Crown and probation as per the VAWIR policy.
4. Breaches should be treated like other crimes in so far as a victim's decision not report a previous crime should not be a barrier to reporting subsequent incidents.
5. The criminal justice system should explore innovative ways (such as using electronic monitoring) to remove the onus for reporting breaches from the woman.^{lxxx}
6. Crown file ownership (discussed in previous recommendations) also has the potential to strengthen the response to breaches of court orders by providing context to individual breach charges.

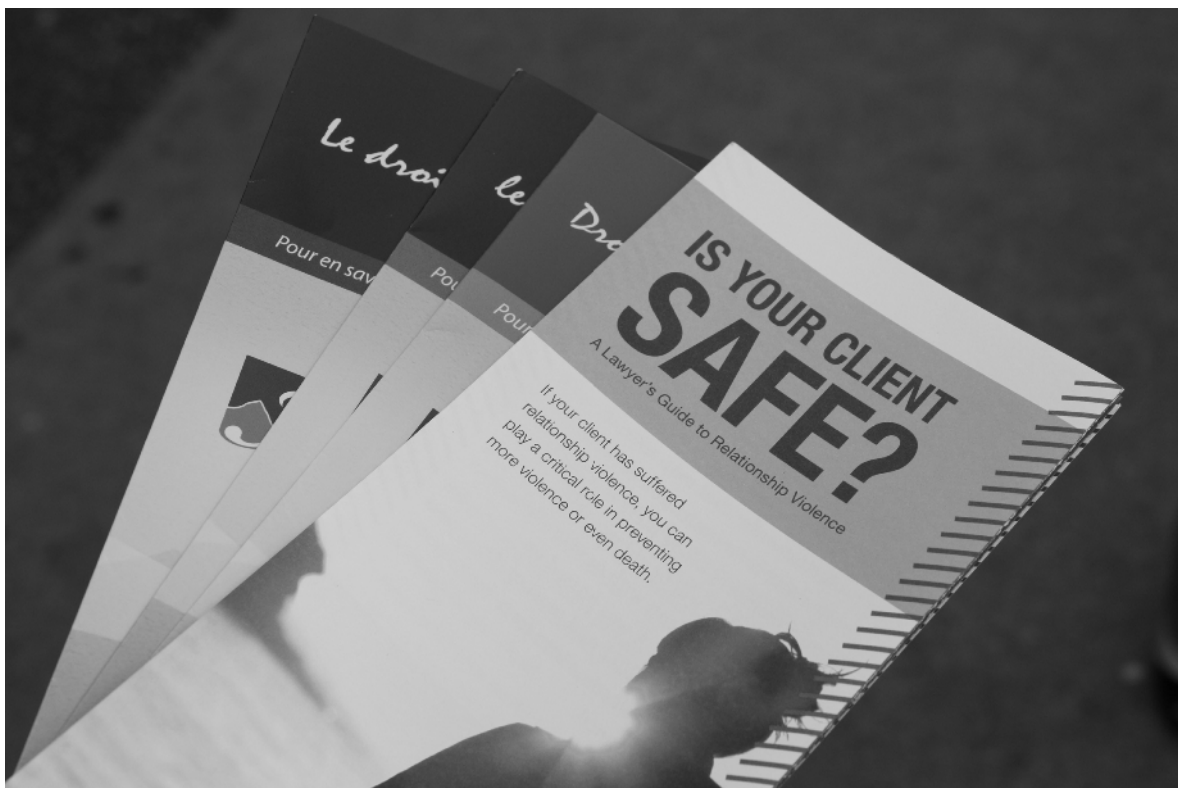
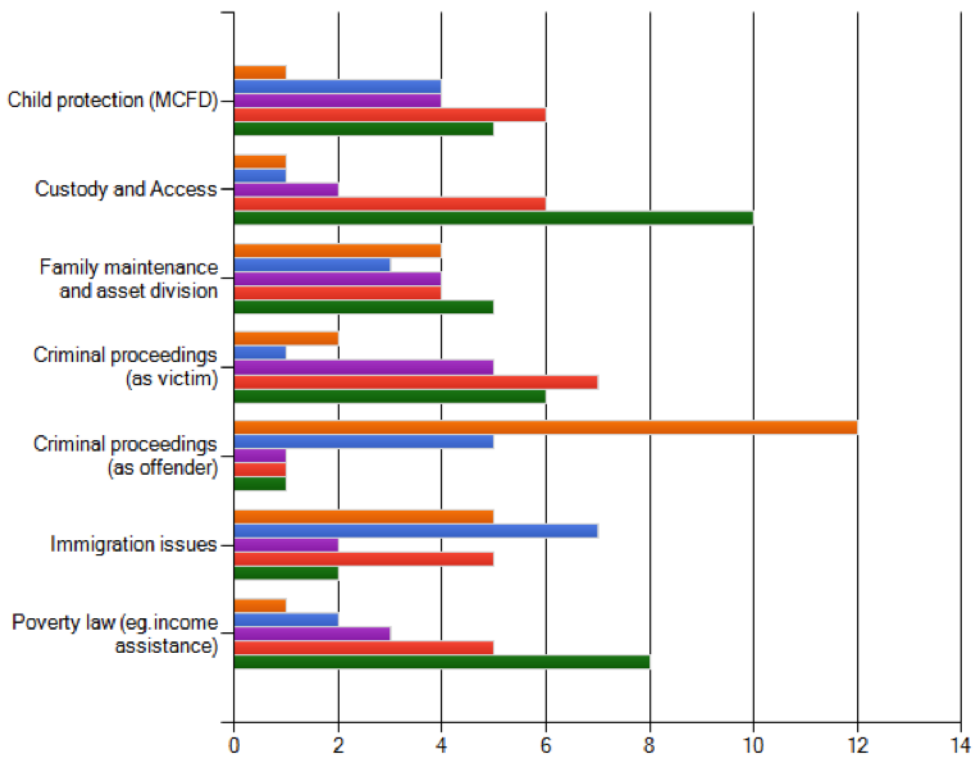
D. Specialized probation services

- i. Dedicated domestic violence courts in both Calgary and Winnipeg have specialized probation programs, and the same is recommended for any new specialized court.
- ii. Probation officers should be provided the resources they need to adequately refer clients to programs and evaluate the impact on the offender. Steps for improving the availability and adequacy of such programs are outlined below.

E. Improved programs for men who abuse women

- i. Greater emphasis must be placed on working with abusers. However, these programs should not be mandated. Instead, they should be made available to offenders who are genuinely interested in making a change in their lives. Research shows that mandated programs do not strongly affect recidivism rates.^{lxxx}
- ii. Programs must emphasize addressing belief systems that perpetuate violence and abuse. Drug and alcohol treatment programs and anger management programs are not a substitute for interventions that target patterns of abuse of power, although they may also be required.
- iii. BC should engage in an evidence-based process for selecting programs to develop and fund in this province.

What legal issues are the women you work with are dealing with. Rate based on how common the issue is with 1 being very rare and 5 being most of the women you work with.



5. NEXT STEPS



Ministry of Public Safety and Solicitor General
Ministry of Attorney General
Ministry of Children and Family Development

Violence Against Women in Relationships

POLICY

December 2010

PSSG10-030

We started this report with the goal of imagining a court that could more effectively meet the needs of women who have experienced violence. In this report, we have shared the stories, reflections and ideas of dozens of women who have personally been through, or supported other women going through, the criminal justice system as survivors of violence. We have provided quick overviews of some programs and practices from other jurisdictions that have been developed to address some of the very issues raised in this report. Finally, we have put forward recommendations that would allow the process to better meet the needs of women survivors of violence.

Moving forward from here will require the co-operation of many diverse stakeholders. It will require building a case for the investment of resources in order to adopt and improve upon best practices from other jurisdictions. It will also require sensitivity to the delicate balance between upholding the rights of women who have been victims of male violence and protecting the constitutional rights of the accused.

We believe that BC is in a position to meet these challenges and would like to offer some reflections on critical elements of any strategy that would successfully improve the criminal justice system response to violence against women.

1. Political Will

Winnipeg is home to Canada's longest running domestic violence court. In that city, government decision makers (with pressure from media and the electorate) set an intention to address the issue of violence against women and, by following through with that goal, brought dedicated courts to Canada.

The process for developing the Winnipeg Family Violence Court began in the years after the Manitoba Attorney General issued a directive to police to lay charges in cases of domestic violence if there were reasonable and probable grounds to suspect a crime had been committed. This was the standard in all crimes and the directive was meant to ensure that the policy was being adhered to regardless of the relationship between the people involved. In the wake of that directive, more domestic violence cases began to come before the criminal justice system. Cases of male violence against women were increasingly being heard alongside other offences, like shoplifting. The media, which had played an important role in the recent policing directive, began to report on the lack of serious consequences for the offenders who were now facing charges as a result of the new policy.

Government officials in the Departments of Justice, Family Services and in the Women's Directorate began meeting to discuss the possibility of a specialized court. Engaged decision makers, including the Chief Judge of the Provincial Court, Director of Public Prosecution and the Minister of Justice helped move the project along.^{xxii} Importantly, decision makers felt confident that they had the support of the electorate. Public opinion surveys at the time showed that the public in Winnipeg believed that assaulting a family member was a crime and that offenders should be held accountable.

British Columbia has historically shown leadership in the area of women's safety and equality. Until it was dismantled in 2001, BC was the only province with a Ministry for Women's Equality. At the same time that the Ministry was dismantled, a number of programs that helped facilitate women's participation in the justice system also faced resource cuts and closures. Over the past three years, in part as a result of the work of arm's length government agencies such as the Coroners Service of British Columbia and the Office of the Representative for Children and Youth, the issue of violence against women and its potentially lethal impacts is once again on the political agenda. The launch of the VAWIR policy in 2010 and the creation of the new Provincial Office of Domestic Violence in 2012 points to a growing political will to improve the criminal justice system response to violence against women.

LSS has recently prepared a report for the BC Ministry of Justice and Attorney General calling for the creation of specialized domestic violence courts as part of an overall restructuring of the justice system. In the LSS report, the recommendation is loosely defined and bundled with a recommendation for a range of “problem-solving and therapeutic courts, in order to achieve the goal of an outcome-focused justice system. Outcome-focused measures are defined by LSS as timely, fair and lasting resolutions of legal problems”. We take the position that it is critical to define those terms as they relate to victim safety, support and empowerment for women in decision-making, offender accountability and reduced recidivism among men who abuse women. This can be achieved by focusing on what has been learned in other jurisdictions and by incorporating the knowledge and perspectives of anti-violence and women-serving agencies.

2. Research and Strive for Best Practice

This report was, in part, born out of a concern about the Vancouver Downtown Community Court handling cases involving violence against women. These concerns arose because, while the DCC is an excellent example of an evidence-based program grounded in research related to the well-articulated needs of a particular group (people who chronically commit crimes as a result of poverty, mental illness or addiction), it was not designed with the equally specific and complex needs of women victims of violence in mind. The process of evidence collection and decision-making that went into designing the court is nonetheless instructive in terms of providing a roadmap to policy makers interested in developing a dedicated domestic violence court.

In March 2004, the Attorney General announced that the BC Justice Review Task Force would form a working group representing all levels of government, including the judiciary, lawyers, police, corrections and social service providers. The Task Force was mandated to study crime in the downtown core of Vancouver. The goal was for the working group to make recommendations and implement them. In September 2005, the working group issued a report entitled *Beyond the Revolving Door: A New Response to Chronic Offenders*.

The planners researched community court models around the world, particularly in the United States, where community courts originated and have been shown to be successful. The experiences of other community courts were useful in designing Vancouver’s Downtown Community Court, which aims to address Vancouver’s unique circumstances. A similar process (like the one we begin in this report) focused on the unique needs of women survivors of violence is needed to ensure that a new program is successful in achieving its goals.

3. Judicial Leadership

Leadership from the judiciary has been very important in developing specialized courts in British Columbia and elsewhere in Canada. An important element of the success of moving the Downtown Community Court forward has been the commitment of Justice Thomas Gove to reform how crime is addressed in the Downtown Eastside community. Justice Gove is currently Vancouver’s Downtown Community Court presiding judge and was instrumental in the design and establishment of the court.

The Duncan Domestic Violence Court, BC’s only dedicated domestic violence court, has also benefited from significant leadership from a committed member of the judiciary. Justice Josiah Wood, who was involved in the initial research project that led to the development of the domestic violence court in Duncan, is currently the Court’s presiding judge.

4. Collaboration and Multi-stakeholder Engagement

When we brought together members of the legal community, women-serving agencies and academics to talk about the option of specialized domestic violence courts for BC, there were a variety of perspectives. Common to all presentations at our forum on the benefits and pitfalls of domestic violence courts was the recommendation for increased collaboration and coordination between child welfare services, victim support services, police, the justice system and community-based women's organizations.

The most successful models from other jurisdictions rely heavily on partnerships within the criminal justice system, but also with women-serving agencies that have a deep understanding of the dynamics of violence against women and a mandate to work with women to end violence against women. LSS has recommended that the Minister of Justice and Attorney General create a dedicated "Reform Secretariat" to oversee the implementation of a new, outcomes-focused justice model, which may include specialized courts. We believe that domestic violence courts grounded in the principles of women's autonomy and empowerment, victim safety and offender accountability should be part of an overhaul of BC's justice system. In order to build courts that truly meet the needs of women survivors of violence, the process must be designed to ensure meaningful participation by a wide-range of women-serving and anti-violence organizations.

Duncan has had a dedicated court for criminal domestic violence for just over a year, which is normally presided by Judge Josiah Wood. According to the Canadian Bar Association, the specialty court was established as a pilot project to help reduce domestic violence recidivism and "to provide support for families that have experienced violence but wish to stay intact."

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ⁱ Duncan has had a dedicated court for criminal domestic violence for just over a year, which is normally presided by Judge Josiah Wood. According to the Canadian Bar Association, the specialty court was established as a pilot project to help reduce domestic violence recidivism and “to provide support for families that have experienced violence but wish to stay intact.”

ⁱⁱ Brewin, Allison and Lindsay Stephens (2004) “Legal Aid Denied: Women and the Cuts to Legal Aid in BC.” Canadian Centre of Policy Alternatives and West Coast LEAF [online]: www.westcoastleaf.org

ⁱⁱⁱ Duncan has had a dedicated court for criminal domestic violence for just over a year, which is normally presided by Judge Josiah Wood. According to the Canadian Bar Association, the specialty court was established as a pilot project to help reduce domestic violence recidivism and “to provide support for families that have experienced violence but wish to stay intact.”

^{iv} The program demands that offenders take responsibility for their actions by entering a guilty plea. If an accused person chooses to plead not guilty and have the matter set for trial, the matter will be sent to Vancouver Provincial Court.

^v The DCC is loosely modeled on specialized courts in New York City. The New York project includes both a specialized domestic violence court and provides support to specialized courts dealing with sexual offences. Find out more about New York’s Redhook Justice Center [online]
<http://www.courtinnovation.org/project/red-hook-community-justice-center>

^{vi} Numbers provided to the Jane Doe Group in response to correspondence with the Downtown Community Court requesting statistics.

^{vii} Newsroom: BC Government Online News Source. “Province Invests in New Domestic Violence Office.” last modified May 4 2012. [online]: <http://www.newsroom.gov.bc.ca/2012/05/province-invests-in-new-domestic-violence-office.html>

^{viii} Although Canada’s *Criminal Code* does not distinguish domestic violence from other forms of violence with respect to specific offences, it is important to note that there is a codified principle of sentencing in section 718.2 (a)(ii). This section allows abuse of an offender’s spouse or common-law partner to be considered an aggravating factor in determining the offender’s sentence.

^{ix} Cook, Dee, et al., (2004) “Enhancing ‘Safety and Justice’: the Role of Specialist Domestic Violence Courts in England and Wales,” The British Criminology Conferences: Selected Proceedings 7, online: <http://www.britisocrim.org/volume7/008.pdf>

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^{xi} Ursel, Jane and Christine Hagyard. (2008) “The Winnipeg Family Violence Court” in *What’s Law Got To*

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^{xiii} Stewart, Julie (2003) "Specialist Domestic/Family Violence Courts within the Australian Context," Australian Domestic & Family Violence Clearinghouse Issues Paper (2003) 10, online: <http://www.austdvclearinghouse.unsw.edu.au/PDF%20files/Issuespaper_10.pdf>.

^{xiii} Davidson, Myrna, and Ronit Dinovitzer (2008) "Specialized Justice: From Prosecution to Sentencing in a Toronto Domestic Violence Court," *What's Law Got To Do With It? The Law, Specialized Courts, and Domestic Violence in Canada*, by Jane Ursel, Leslie Tutty and Janice LeMaistre, Cormorant Books: Toronto, pp. 120-151

^{xiv} Jane Ursel, Leslie M. Tutty and Janice LeMaistre (2008) *What's Law Got To Do With It? The Law, Specialized Courts and Domestic Violence in Canada*, Cormorant Books

^{xv} The term integrated court has also been used to describe domestic violence courts that are designed to coordinate parallel criminal and family proceedings. The Toronto Integrated Domestic Violence Court is in example of the latter that will be discussed in detail later in this report.

^{xvi} Davidson, Myrna, and Ronit Dinovitzer (2008) "Specialized Justice: From Prosecution to Sentencing in a Toronto Domestic Violence Court," In *What's Law Got To Do With It? The Law, Specialized Courts, and Domestic Violence in Canada*, Jane Ursel, Leslie Tutty and Janice LeMaistre (eds) Toronto: Cormorant Books, pp. 120-151.

^{xvii} Mazur, Robyn & Liberty Aldrich (2003) "What Makes a Domestic Violence Court Work?: Lessons from New York" American Bar Association N. 2, Vol. 42 Judges Journal.

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^{xxi} Boyes, Mike. *Battlefords Domestic Violence Treatment Options Court in North Battleford, Saskatchewan: Evaluation Report, April 10, 2003 to April 1, 2008*, Northern Society for Domestic Peace [online0 <http://www.domesticpeace.ca/documents/Battleford_DVTO_FinalReport_Nov30FINAL.pdf>.

^{xxii} Catlett, Toews & Walilko, (2010) "Men's Gendered Constructions of Intimate Partner Violence as Predictors of Court-Mandated Batterer Treatment Drop Out" *American Journal of Community Psychology* Vol. 45 No 12, pp. 107-123.

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^{xxiv} Ursel, Tutty and LeMaistre *What's Law Got To Do With It? The Law, Specialized Courts and Domestic Violence in Canada*, Toronto: Cormorant Books 23.

^{xxv} This issue is discussed in greater detail in the sentencing, orders and enforcement section of the paper.

^{xxvi} Ministry of Public Safety and Solicitor General, Ministry of Attorney General and Ministry of Children and Family Development (2010) *Violence Against Women in Relationships Policy* page 7.

^{xxvii} Jocelyn Coupal, Senior Crown Prosecutor and project leader email regarding Langley Project to interviewer, S. Green, February 22nd, 2012. An evaluative report of the project is not currently available.

^{xxviii} Betsy Tsai, (2000) "The Trend Toward Specialized Domestic Violence Courts: Improvements on an Effective Innovation." *Fordham Law Review* 68 retrieved February 20th, 2012 [online]: <http://ir.lawnet.fordham.edu/flr/vol68/iss4/8>.

^{xxix} BC Association of Specialized Victim Assistance & Counselling Program. *Critical Elements of an Effective Response to Violence Against Women* (April 11th, 2007), retrieved February 20th, 2012 [online]: <http://www.endingviolence.org/files/uploads/BN7SpecializedJustice.pdf>

^{xxx} One of the earlier examples of a DVU is The Family Justice Center, which opened in 2002 in San Diego as a "one stop shop" model, identified as a best practice in the field of domestic violence intervention and prevention services by the United States Department of Justice. The core concept is to provide one place where victims can go to talk to an advocate, plan for their safety, interview with a police officer, meet with a prosecutor, receive medical assistance, receive information on shelter, and get help with transportation. Information available at Family Justice Center [online]: <http://familyjusticecenter.com/Tech-Assistance/frequently-asked-questions.html>

^{xxxi} Ibid.

^{xxxii} BC Association of Specialized Victim Assistance & Counselling Program (2007) *Critical Elements of an Effective Response to Violence Against Women* [online]: <http://www.endingviolence.org/files/uploads/BN7SpecializedJustice.pdf>

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^{xl} Calgary Police *Sections and Units: Domestic Conflict Unit*, [online]: www.calgarypolice.ca. See also Alberta Justice Communications (2008) *Domestic Violence Handbook for Police and Crown Prosecutors in Alberta* [online]:

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^{xlix} Ministry of Public Safety and Solicitor General, Ministry of Attorney General and Ministry of Children and Family Development (2010) *Violence Against Women in Relationships Policy*, pp. 22.
ⁱ *Ibid*, 50.

ⁱⁱ [Online] <http://www.newswise.com/articles/jailhouse-phone-calls-reveal-why-domestic-violence-victims-recant>

ⁱⁱⁱ See Vollans, A (2011) "Court-related Abuse and Harassment: Leaving can be Harder than Staying" YWCA Vancouver, for a full discussion of the impacts of litigation of abuse on women survivors of violence available [online] http://www.ywcavan.org/content/Legal_Publications_and_Projects/1047

ⁱⁱⁱⁱ Zorza, J. (1995). How abused women can use the law to help protect their children. In E. Peled, P. Jaffe, & J. Edleson (Eds.), *Ending the cycle of violence: Community responses to children of battered women* (pp. 147-169). Thousand Oaks, CA: Sage Publications.

^{lv} Vollans, A (2011) "Court-related Abuse and Harassment: Leaving can be Harder than Staying" YWCA Vancouver available [online] http://www.ywcavan.org/content/Legal_Publications_and_Projects/1047

^{lv} Cook, Dee, et al., (2004) "Enhancing 'Safety and Justice': the Role of Specialist Domestic Violence Courts in England and Wales," *The British Criminology Conferences: Selected Proceedings*, pp. 7. online: <http://www.britisoccrim.org/volume7/008.pdf>.

^{lvi} Tutty, Leslie M., Jane Ursel and Fiona Douglas (2008) "Specialized Domestic Violence Courts: A Comparison of Models" In *What's Law Got To Do With It? The Law, Specialized Courts, and Domestic Violence in Canada*, Jane Ursel, Leslie Tutty and Janice LeMaistre (eds) Toronto: Cormorant Books.

^{lvii} *Ibid*, 83.

^{lviii} *Ibid*.

^{lix} *Ibid*, 84.

^{lx} *Ibid*.

^{lxi} *Ibid*.

^{lxii} Justice Donna Martison "One Assault Allegation, Two Courts: Can we do a Better Job of Coordinating the Family and Criminal Proceedings" *Managing the Family law Domestic Violence Case*, National Judicial Institute Judicial Education Program, Quebec City, Quebec, November 2010.

^{lxiii} Taylor, Lauren R. with Nicole Gaskin-Laniyan (2007) "Sexual Assault in Abusive Relationships" [online] <http://www.nij.gov/journals/256/sexual-assault.html>

^{lxiv} Herman, Kristine (2012) "Sex Offense Courts: The Next Step in Community Management?" Center for Court Innovation [online] <http://www.courtinnovation.org/research/sex-offense-courts-next-step-community-management>

^{lxv} <http://www.courtinnovation.org/topic/sex-offending>

^{lxvi} Grant, Juli Ana and Rebecca Thomforde Herman (2010) *Sex Offense Courts: Supporting Victim and Community Safety Through Collaboration* Center for Court Innovation. [online] <http://www.courtinnovation.org/>

^{lxvii} It is important to note that court proceedings cannot be delayed to accommodate victim needs, such as meeting with a resource worker, where a conviction is being sought. This is because any delay not caused by the accused can result in a stay of proceedings, which could in turn imperil a prosecution. This would not apply if there was a general plan where both parties consented and where the outcome would be beneficial to the accused (for example, where the accused would receive a peace bond or stay/dismissal).

^{lxviii} Hornick, Joseph, Michael Boyes and Janine Christensen (2008) *The Yukon Domestic Violence Treatment Option: An Evaluation* in Ursel, Tutty and LeMaistre, (eds) *What's Law Got To Do With It? The Law, Specialized Courts and Domestic Violence in Canada*, Toronto: Cormorant Books.

^{lxix} Tutty, Leslie M., Jane Ursel and Fiona Douglas (2008) "Specialized Domestic Violence Courts: A comparison of models" in Ursel, Tutty and LeMaistre, (eds) *What's Law Got To Do With It? The Law, Specialized Courts and Domestic Violence in Canada*, Toronto: Cormorant Books.

^{lxx} http://scholar.google.ca/scholar?q=buffalo+domestic+violence+courts&hl=en&as_sdt=0&as_vis=1&oi=scholar&sa=X&ei=qftPT7PsJsrhIAL-l8m0Bg&ved=0CBoQgQMwAA

^{lxxi} Mazur, Robyn & Liberty Aldrich (2003) "What Makes a Domestic Violence Court Work?: Lessons from New York" No. 42 Judges Journal, pp 5.

^{lxxii} Tutty, Leslie M., Kevin McNichol and Janine Christensen (2008) "Calgary's Homefront Domestic Violence Court" In *What's Law Got To Do With It? The Law, Specialized Courts, and Domestic Violence in Canada*, Jane Ursel, Leslie Tutty and Janice LeMaistre (eds) Toronto: Cormorant Books

^{lxxiii} Concerns around peace bonds not being enforced are the result of a policing policy issue..

^{lxxiv} Department of Justice (2011) "Unified Family Court, Summative Evaluation" Available [online] <http://www.justice.gc.ca/eng/pi/eval/rep-rap/09/ufc-tuf/p2.html>

^{lxxv} Ursel, Tutty and LeMaistre, (2008) *What's Law Got To Do With It? The Law, Specialized Courts and Domestic Violence in Canada*, Toronto: Cormorant Books, 14.

^{lxxvi} Ibid, 78.

^{lxxvii} Gondolf, E.W. (2002) *Batterer Intervention Systems: Issues Outcomes, and Recommendations*. Thousand Oaks, CA: Sage.

^{lxxviii} Edwards, Alan and Jennifer Haslett (2003), "Domestic Violence and Restorative Justice: Advancing the Dialogue," *Victim Offender Mediation Association (VOMA)* [online]: <http://www.voma.org/DVandRJPaper2003.pdf>

^{lxxix} Domestic Abuse Intervention Programs (DAIP). "Program Evaluation Activities at Domestic Abuse Intervention Programs." (N.d.), retrieved September 10 2012 [online]: <http://www.theduluthmodel.org/pdf/ProgramEvaluation.pdf>

^{lxxx} http://www.silive.com/news/index.ssf/2011/11/donovan_to_implement_pilot_progr.htm

^{lxxxi} Catlett, Toews & Walilko (2010) Men's Gendered Constructions of Intimate Partner Violence as Predictors of Court-Mandated Batterer Treatment Drop Out" *American Journal of Community Psychology* Vol. 45 No 12, pp. 107-123.

^{lxxxii} Ursel, Jane and Christine Hagyard (2008) "The Winnipeg Domestic Violence Court" In *What's Law got to do with it?* Jane Ursel, Leslie M. Tutty and Janice LeMaistre (eds) Comorant Books: Toronto.

