

Domestic Violence Courts in British Columbia: What Are They and Are They Needed?

A report prepared for the Domestic Violence and Criminal Harassment Unit
of the Vancouver Police Department.

K. Boland
April 2002

Author's Note

I would just like to take this opportunity to thank all the members of the Domestic Violence and Criminal Harassment Unit of the Vancouver Police Department; Alex, Andy, Bob, Colin, Dean, Jacky, Joe, Laura, Robyn, Shaun, and Veronica for allowing me the opportunity to take on this assignment, for making my time here such an enjoyable one, and especially for letting me have the window seat in the office.

I would also like to thank the Ontario Attorney General's office and the Woman's Abuse Council of Toronto for their enormous help to me in researching this topic.

I would like to give a special thanks to Sgt. Usui for his supervision, Det. Dawes for letting me share his desk, and to Sgt. Hammond for hiring me in the first place. And finally, to my editor Jenise, as always thank you.

Domestic Violence Courts in British Columbia: What are They and are They Needed?

Background

In the latter half of the 20th century one of the most notable innovations by the police forces throughout North America are the emerging methods by which they handle **Domestic Violence (DV)** cases. Traditionally DV had been treated as a “family” problem between a husband and wife. Spousal assault was thought of differently than regular assault, and except in extreme circumstances the **Criminal Justice System (CJS)** had no basis for involving itself in the happenings of a marriage¹.

Attitudes towards this problem have recently changed, as members of society began to argue that any form of assault was a crime and should be treated as such². In fact, they argued, the crime could be much worse than with regular assault, as often the victim was unwilling to report incidents of abuse or charge their spouses if police were called to the scene. In response to this the police department in Duluth, MN, instituted a mandatory arrest policy, requiring officers to arrest spouses if there was indication that an assault had taken place, regardless of whether or not the victim wished to press charges³.

In time other jurisdictions began to adopt this policy (the **Vancouver City Police** among them). With this change in policy came a shift in attitude, as officers grew more willing to involve themselves in DV situations. By the end of the century many police forces had established their own DV units designed to handle cases of violence between

¹ Carole Kennedy Chaney & Grace Hall Saltzstein, *Democratic Control and the Bureaucratic Responsiveness: The Police and Domestic Violence*. American Journal of Political Science 42.3. (July, 1998).

² Ibid.

spouses⁴. Comprised of specially trained officers, these units are educated in the unique aspects of investigating DV. Often these units contain trained counselors who are utilized to help victims through these difficult times and to aid officers in how to best handle each case they encounter⁵.

While police forces have begun to introduce specialized procedures to deal with DV, for the most part other aspects of the CJS have remained stagnate on the issue⁶. Over the last ten years, however, an innovation has emerged in the hope of changing the way the CJS addresses the problem of DV. The innovation has been the establishment of **Domestic Violence courts**, and their mandate is to deal solely with the problem of Domestic Violence.

The available data on these new courts, and their effect in reducing the costs, both financial and otherwise, is promising, and as such is of particular importance to the province of British Columbia (B.C.). Recent studies suggest that B.C. has one of the highest rates of reported DV in Canada⁷, and the consequences of which lead not only to human suffering, but also to financial hardship upon the people of this province. This paper will show why new innovations in dealing with DV are needed in B.C., what DV courts are, how they work, and how they will work to reduce the silent epidemic in this province that is DV.

³ Betsy Tsai, *The Trend Toward Specialized Domestic Violence Courts: Improvements on an Effective Innovation*. *Fordham Law Review* 68 (2000).

⁴ Jeff Ackerman & Richard B. Felson, *Arrest for Domestic and Other Assaults*. *Criminology* 39.3. (2001).

⁵ Shannon Allen & Jacqueline Corcoran & Derrelyn Perryman & Margaret Stephenson, *Perceptions and Utilization of a Police-Social Work Crisis Intervention Approach to Domestic Violence*. *Families in Society: The Journal of Contemporary Human Services* (2001).

⁶ *Ways to Stop Family Violence Need to be Evaluated*. *Public Health Reports* 113 (May/June 1998).

⁷ Richard Kerr & Janice McLean, *Paying for Violence: Some of the Costs of Violence Against Women in BC*. *Report to the Ministry of Women's Equality*. (Victoria, BC: Queen's Printer, 1996).

Costs of Domestic Violence in British Columbia

A recent report done on behalf of the Ministry of Women's Equality in 1996 estimated the identifiable costs of violence against women in British Columbia to be \$385 million each year⁸.

	\$ Millions
Policing	47
Corrections	39
Criminal Injury Compensation	17
Victim Assistance Program	3
Counseling For Women	5
Aboriginal Programs	3
Mental Health Care (partial)	18
Alcohol and Drug Treatment	7
Income Assistance	161
Transition Houses	25
Sexual and Woman Assault Centers	2
Women's Loss of Work Time	54
Children Who Witness Abuse Programs	2
Treatment Programs for Assaultive Men	2
Total Identified Costs	\$385

Table 1
(table reproduced from Kerr & McLean (1996))

However, these figures only represent the easily identifiable costs of violence against women.

If one were to include monies spent on health care, childcare, court and legal fees and other

costs, the total is approximated closer to **\$1 billion per annum**⁹.

Of that \$1 billion per year figure, a large percentage is the direct result of domestic violence (DV)¹⁰. A Statistics Canada survey¹¹ estimated that 52% of women in B.C. have experienced spousal abuse at least one time in their lives, while 18% of women reported that their current spouse has been abusive to them at least once¹². Of that number 3% of women in B.C. (approximately 27 500) have experienced 6 or more

⁸ Kerr & McLean (1996), Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Statistics Canada Family Violence in Canada: A Statistical Profile, (Ottawa, Queen's Printer, 1999).

¹² Statistics Canada (1999), Ibid.

violent incidents from their current spouse¹³. What is most troubling about these statistics is the fact that experts estimate that, on average, 35 assaults take place before the police are involved in the relationship¹⁴.

Thus, if the majority of identifiable costs can only be attributed to those cases in which the police or some form of social service are involved, and the police become involved in only a small amount of DV cases, it stands to reason that the hidden costs of DV are extraordinarily high. Of the 52 % of women assaulted by their spouse in B.C., only 3% are currently with spouses that have assaulted them at least 6 times¹⁵. Only a small amount of those cases ever reach 35 assaults, which, as stated, is the average for police involvement. So the justice system truly only handles the tip of the iceberg when it comes to the DV problem.

As of 1996, B.C. had the highest percentage of reported incidents of domestic violence in Canada¹⁶. Since domestic violence is considered to be a highly underreported incident¹⁷, this may simply mean that spouses in this province are more willing to report incidents than those in other provinces. Regardless, the justice system only involves itself in reported cases; and as such B.C. experiences a greater demand on resources available to handle this problem than do other provinces. As a result, the need to establish effective techniques to reduce the problem of DV is also of greater importance to this province.

¹³ Kerr & McLean (1996), Ibid.

¹⁴ C.A. Burris & P. Jaffe, *The Response of the Criminal Justice System to Wife Abuse Report to the Solicitor General of Canada*, (Ottawa: Queen's Printer, 1991).

¹⁵ Kerr & McLean (1996), Ibid.

¹⁶ Ibid.

¹⁷ Allen & Corcoran & Perryman & Stephenson (2001), Ibid.

Domestic violence is a problem not only in itself, but also in the lasting effects it renders on society long after the initial incidents take place. It is estimated that between 50 000-70 000 children witness violence against their mothers at some point in their lives¹⁸. The rate for serious behavioural problems for children who witness abuse are 17 times higher for boys and 10 times higher for girls than that of other children¹⁹. Further to the point, if a man's father was abusive to his mother there is a 57% probability that man will abuse his own wife²⁰. Also, studies done in the U.S. allege that children in households who witness domestic violence were 4 times more likely to be arrested over the course of their lives than children who do not²¹.

Furthermore, in 56 % of all spousal homicides in Canada, the death of one of the spouses is the result of an escalating argument²². Canadian studies have revealed that in 6 out of every 10 spousal homicides police were aware of domestic violence in the relationship²³. What is more disturbing is that in 8% of cases involving an ex-spouse responsible for death, the perpetrator had a restraining order against them at the time of the homicide²⁴. Thus, in many spousal homicide cases the Justice System has been in contact with both the victim and the accused, but was ineffectual in breaking the cycle of violence. It is precisely because of that last fact that innovations are needed to improve the way the criminal justice system (CJS) contends with domestic violence.

¹⁸ Kerr & McLean (1996), Ibid.

¹⁹ Linda Light & Shelly Rivkin, *Power Control and Violence in Family Relationships: A Criminal Justice Response. Stopping The Violence: Changing Families, Changing Futures* Edited by Gloria Gutman & Jill Hightower & Mary Rusell (Vancouver, B.C. Institute on Family Violence, 1996).

²⁰ Ibid.

²¹ Ibid.

²² Statistics Canada (1999), Ibid

²³ Ibid.

²⁴ Ibid.

The Need for Innovation in Dealing with Domestic Violence

In the past domestic violence was often treated as a private in-house problem, something that should be kept between the man and wife. Over the last two decades, however, there has been a noticeable paradigm shift in the way law enforcement agencies handle allegations of DV. A zero tolerance, mandatory charge (regardless of whether or not the victim wishes to press charges) policy is now standard in many police forces across North America²⁵. This was done with the intention of recognizing DV as an offence as serious as any other assault, and bringing it within the jurisdiction of the CJS. However, some critics argue that while this was a step in the right direction, the time has come for a greater shift in the way that DV is viewed.

While there is no doubt that DV is just as **serious** as any other offence, this paper argues that a change should be made in the view that DV can or should be **treated** the same as any other crime. There are a number of features that make DV unique from other crimes, and it therefore requires a slightly different method of processing these acts through the CJS. Here the argument could be raised that all offences have characteristics that make them unique within the criminal code, and would therefore benefit from specialized treatment. While this position may be true, there unfortunately are not enough available resources for all crimes to have specialized courses of action. For DV however, where the problem is widespread and enough and the relationship between victim and offender is so unique, the problem requires, and can justify, specific practices within a court of law for the problem to be effectively resolved, including specialized courtrooms.

²⁵ Tsai (2000), Ibid.

Being the victim of an assault is difficult for anyone to deal with, but when the assailant is your own spouse the emotional and psychological damage is so much more severe²⁶. There are many more nuances in a spousal assault case than are involved in a general assault. When a person is attacked they are often left with a sense of fear of the outside world. If the attacker was someone known to him or her, this fear may be coupled with a sense of betrayal. Either way the victim is still able to take refuge in his or her own home from the dangers outside world²⁷. But in the case of spousal assault the home is the source of the victim's degradation. There is no safe haven - the place where one should feel the most secure has in fact become the source of danger. Even when a person is attacked in their home by a stranger (e.g. in a home invasion), the victim may feel a loss of security in their home, but the house itself is not the source of their anxiety. Rather, it is the fear of others entering it²⁸.

This is just one example of the characteristics unique to DV. What makes DV such a problem is that its victims feel the brunt of the worst aspects of assault. First, there is the physical harm, and the emotional and psychological ramifications that come with it. Second, there is the issue of betrayed trust as the attacker is their spouse, the person that, in theory, is supposed to be their most trusted companion. More so than in an attack by any other acquaintance (except perhaps parents) spousal assault represents the ultimate emotional betrayal. Spouses are the ones people are supposed to turn to when they are faced with adversity, and it is between spouses that bonds of trust have been built up. In domestic violence assaults the trust is broken and the victim is left

²⁶ Avshalom Caspi & Jeff Fagan & Robert F. Krueger & Terrie E. Moffitt, *Partner Abuse and General Crime: How are They the Same? How are They Different?* *Criminology* 38.1 (2000).

²⁷ Ibid

²⁸ Ibid

feeling like there is nowhere for them to turn for safety or solace²⁹. How can victims be expected to turn to or trust anyone when the person they should be able to count on the most is the source of their fear and suffering?

The third aspect that makes DV unique is the fact that victims of domestic violence are faced with an aspect of re-victimization not present in the majority of non-DV cases that present themselves before the judiciary. In most cases re-victimization refers to the possibility of further harm occurring to the victim through testimony or statements. This can increase the psychological and emotional impact of the crime as the victim is forced to relive the experience in their mind, but it does not refer to physically making the victims endure the crime again³⁰. However in cases of DV re-victimization is a concern in the most literal sense, as victims are in danger of future assaults by their spouse. This is of significant importance when handling the rehabilitation of an offender. Typically when a sentence is handed down there is a concern of recidivism, meaning the offender could go out and begin to re-offend. The focus of the CJS is to prevent the offender from committing acts against theoretical future victims³¹. It is preventing these acts that are of primary concern to the CJS, as there is usually no way of predicting who a specific victim could be if the does offender revert. However in cases of DV the CJS is not concerned with a theoretical victim; there is an identifiable person who is in very real danger of being victimized again.

Recognizing this fact is the paradigm shift in question. Once a person is convicted the primary concern is of the CJS is to punish and rehabilitate the offender for their actions, to prevent them from committing another crime, and to deter others from

²⁹ Caspi & Fafan & Krueger & Moffitt (2000), Ibid.

³⁰ Chaney & Saltzstein (1998), Ibid.

committing a similar act³². It is typically a balancing act of many conflicting interests. But to effectively combat DV the main concern must be the safety of the victim, there is no balancing act³³. The only concern should be to stop the cycle of violence, and the CJS must therefore take whatever steps it deems necessary in each case to ensure that goal.

Domestic Violence Courts

Flowing from this train of thought a growing trend has emerged in courtrooms across North America, a court designed specifically for handling domestic violence cases. The first such court appeared in the Dade County-Miami Florida area in 1992³⁴. Since then it has expanded into jurisdictions throughout the United States and Canada, and even to Australia. In Canada, DV court pilot projects were established in a number of areas such as London, Toronto, Calgary, and a similarly themed Family Violence Court model in Winnipeg. Recently the government of Ontario decided to expand the DV court program throughout the province to over 55 jurisdictions, to come into effect by the end of 2003³⁵.

Although domestic violence courts closely resemble other criminal courts, the main differences lies in the fact that all members of the CJS involved in the DV court are **specialized** in the handling of DV cases. As such there is no rotation of staff in and out of the DV court, and there is a designated number of lawyers, judges, and related staff who handle all of the domestic violence cases that go through the system. The main goal

³¹ Ibid.

³² Sharon Denaro & Amy Karan & Susan Keilitz, *Domestic Violence Courts: What Are They and How Should we Manage Them?* *Juvenile and Family Court Journal* (Spring, 1999).

³³ Eugene M. Hyman, *The Courts and Domestic Violence*. *Lawyer's Weekly* 19.24. (Oct. 29, 1999): p.4.

³⁴ Tsai (2000), Ibid.

³⁵ Ontario Attorney General, *Province Wide Expansion of Domestic Violence Courts Press Release*, (Sept. 26, 2001).

http://www.mndm.gov.on.ca/MNDM/pub/newrel/nr01/093_01e.asp

9 Jan. 2002.

of these courts is to deal with DV cases as efficiently and as effectively as possible. To reach that goal the new courts do their best to streamline DV cases and to incorporate related charges and incidents between the accused and the complainant.

In DV cases, attempting to resolve the charges as quickly as possible is of greater concern than in many other cases. In many instances the victim and the accused will still be cohabitating throughout the trial process. To prevent further harm coming to the victim, the sooner the legal matters are handled the better. If the accused pleads guilty, or is found to be at trial, then the sooner the court sentences them and the sooner the CJS can begin working towards preventing future violence.

The following outlines what innovations will be employed by each segment of a typical courtroom that will help streamline and improve the way that the CJS handles DV cases, by converting a typical courtroom into a DV court model.

DV Court Prosecutors

The twin goals of a prosecutor in the DV Court are to prepare and prosecute cases effectively using all available evidence, and to protect and ease the trauma on the victims of this crime. The DV court requires that the prosecutor put more emphasis on presenting any and all corroborating evidence before the court. The victim's testimony cannot be the sole piece of evidence to be relied upon. Too often the victim is pressured into not testifying by their spouse, or into changing their story at trial³⁶. Without the victim's testimony, the charges are often stayed or dropped altogether. Even when the victim does testify, it can still not be enough to gain a conviction. In a study done in the Toronto

³⁶ Allen & Corcoran & Perryman & Stephenson (2001), Ibid.

area, it was found that in only one out of ten cases where the victim's testimony was the only piece of evidence introduced was an accused found guilty of all charges³⁷.

In the DV model, while efforts will still be made to try to secure testimony, the prosecution is carried out with the assumption that the victim will **not** testify. Therefore other forms of evidence such as 911 tapes, medical reports, and the victim's original statement are all gathered and emphasized in the attempt to gain a conviction. The determination to ensure cases are brought to trial has two effects. First, by increasing the likelihood of a conviction the CJS increases their ability to intervene and end the violence, and second it is a powerful aid in convincing the accused that there are consequences to their violent behaviour³⁸.

Another innovation of the DV courts requires prosecutors, like judges, **be assigned specifically to DV cases**. Each attorney is vigorously trained in all aspects of handling DV cases. A typical prosecutor, for whom DV cases make up only a percentage of their workload, is currently unable to dedicate time to learning about the intricacies of DV, as it would take time away from other cases, and therefore be detrimental to their other files³⁹. For a specialized prosecutor this is not an issue, their focus is completely on DV cases and as such they learn to handle them more effectively and diligently.

Another important aspect of DV court cases is that the prosecutor is responsible for interacting more with the victims. Prosecutors are assigned early on in the court process, and **all efforts are made to keep the same counsel involved throughout the trial**. This is beneficial for the victim as they are able to build a rapport with the

³⁷Woman Abuse Council of Toronto, *Report on First Year Data Collection Old City Hall Court. Women's Court Watch Project III* (2001).

³⁸Robert C. Davis & Laura B. Nickles & Barbara E. Smith, *The Deterrent Effect of Prosecuting Domestic Violence Misdemeanors. Crime & Delinquency* 44.3. (July, 1998).

prosecutor handling their case. Also, it prevents the victim from having to go through multiple interviews with different attorneys, thereby cutting back on the re-victimization they might experience. By decreasing the trauma inflicted on the victim, and by building a relationship between the prosecutor and the victim, the likelihood of the victim testifying against the accused increases⁴⁰.

As for actual trials, the crown office is responsible for flagging domestic violence cases in with other cases or charges involving the same participants and bringing it before the court. This coordination allows the judge to have a more complete understanding of the scope of the problem(s)⁴¹. Therefore he/she is able to make a more informed decision when they resolve the case(s). It also eases the chaos that having the same participants involved in separate court cases can bring, by attaching the same attorneys to handle separate charges on the same case, while cutting down on the number of court appearances by both the victim and the accused.

This coordination also results in a decrease in the amount of time it takes for cases to be processed. With less court appearances, and with designated attorneys and justices who are familiar with all the specifics of each case, as well as becoming more familiar dealing with DV cases in general, it takes less time to handle a DV case in this court setting than it does in a regular courtroom⁴². This expediency is particularly important to DV cases, where a quick resolution is important to both the accused and the victim,

³⁹ Danaro & Karan & Keilitz (1999), Ibid.

⁴⁰ Tsai (2000), Ibid.

⁴¹ Danaro & Karan & Keilitz (1999), Ibid.

⁴² Robert C. Davis & Laura Nickles & Barbara E. Smith, *Prosecuting Domestic Violence Cases with Reluctant Victims: Assessing Two Novel Approaches in Milwaukee*. Report to the National Institute of Justice (1997).

<http://www.ncjrs.org/txtfiles/171666.txt>

16 Jan. 2002.

because, as mentioned above, they are often still cohabitants and the trial process can cause additional stress on an already tense relationship⁴³.

A further benefit of specialization in regard to prosecutors is the ability to accept a higher caseload. In the DV court there is less running around from courtroom to courtroom, as there is only one designated place for them to work. Also the cases tend to end quicker, and have fewer hearings than they do in an average courtroom⁴⁴. This means that on average, the attorney spends less time resolving cases. As such, they can accept a larger caseload.

DV Court Prosecution Summary:

- Victim Safety is primary emphasis of the prosecution
- Actively pursue all prosecutions and secure any and all relevant information to present before the court.
- Assigned specifically to domestic violence cases and receives intensive training in techniques on handling DV cases.
- Prosecutors are assigned early in the trial process and all efforts are made to keep the same personnel assigned to their cases
- Emphasis on meeting and building trust and rapport with the victims
- Prosecution's office responsible for combining charges involving the same participants, resulting in cases handled faster and with less court time used.
- Less time needed for each case results in higher caseload for prosecutors

DV Court Judges

Essentially, the judge is the lynchpin of the justice system. The only way any type of innovation will work in a court of law is if judges adopt them into their practice. As such, they are the most important factor in the decision to implement changes in the way the CJS handles domestic violence cases. Having said this, there is really very little change in the role of the judge in a DV case. The judge is still the independent arbiter,

⁴³ Allen & Corcoran & Perryman & Stephenson (2001), Ibid.

⁴⁴ Tsai (2000), Ibid.

and their role is to ensure that the accused receives a fair trial and that due process is followed. The main difference between a judge in a standard courtroom and one in a DV court occurs in regard to sentencing. In the DV courtroom judges are given extensive training on the most effective methods for resolving DV situations.

As a result sentences in DV courts are more **proactive** in nature, as their main focus is keeping the victim safe in the future. This means an increased emphasis on treatment and counseling than might otherwise be ordered. Studies have shown punishments such as fines and standard probation do very little to deter domestic violence, thus DV courts tend to emphasize mandatory programs for the offender⁴⁵. Not entering or not attending these programs is tantamount to breaching probation, and the offender will then be ordered to attend or be sent to jail.

Enforcing these breaches is vital, as it helps ensure the offenders compliance for counseling. In truth, the only way the court can make the offender change their behaviour is if the offender wants or agrees to change⁴⁶. If the offender is not attending counseling it can be interpreted as a sign that they have not taken the process seriously and do not want to atone for their actions or amend their behaviour. Therefore it becomes the courts responsibility to take action to ensure the offenders compliance with the court order. When a breach occurs, the first course of action is to bring the offender into custody, thus making it clear to the offender that the only way that they can avoid incarceration is if they put effort into controlling their problem. This vigilant stance by

⁴⁵ Tim Leduc, *Review of the Effectiveness of Partner Abuse Intervention Programs. Literature Review and Research Assessment for the Woman Abuse Council of Toronto and the Partner Abuse Referral Programs.* (2001) .

⁴⁶ County of San Diego. *Madge Bradley Family Violence Solutions Center.*
<http://www.sandiegodvunit.org/madge.htm>

11 Jan. 2002.

the court regarding what some may consider minor infractions guarantees the offender's co-operation and, hopefully, respect for the process⁴⁷.

Another change occurs in the pre-trial arraignments. Should a person be released after arrest for assaulting their spouse, a decision may be made on living arrangements until the time of the trial. Here the judge becomes involved, helping to ensure there are no further incidents of violence. He/she must weigh several different factors into the decision of living arrangements, including the severity of the alleged attack and the existence of a peace bond (restraining order) or the victim's intention to get one. In some jurisdictions where DV courts are in place, the arraignment judge can order the defendant to attend counseling until the time of the trial⁴⁸. This has led to controversy as defense advocates argue this is tantamount to punishing the person before they are found guilty⁴⁹. Regardless, there are serious concerns for the victim's safety between the time of arrest and the actual trial. Studies have shown that victims are most susceptible to an increase in violent attacks immediately following the decision to leave their spouse⁵⁰. Thus, it is imperative for a judge to be aware of the existence of or the intention to obtain a peace bond so as to better ensure the safety of the victim.

Factors like these have prompted some jurisdictions to adopt a risk screening process that aids in the judge's decision whether or not to grant bail, or to attach specific conditions to it. In the Calgary Domestic Violence Court for example, a uniform show

⁴⁷ Davis & Nickles & Smith (1998), Ibid.

⁴⁸ *Domestic Violence Court Marks Fifth Year* *New York Law Journal* (June 12, 2001).
<http://www6.law.com/lawcom/displayid.cfm?statername=NY&docnum=68071&table=news&html>.
9 Jan. 2002.

⁴⁹ Cohen (2000), Ibid.

⁵⁰ Ackerman & Felson (2001), Ibid.

cause hearing is performed for each case⁵¹. During the hearing the accused is rated on a scale that weighs different variables associated with escalating levels of violence. Some of these categories include:

- a) Past History of Violence
- b) Employment
- c) Presence of a children/children
- d) History of mental illness, including threats of suicide

All of these factors have been shown through independent studies as reliable predictors in measuring the risk of future violent acts⁵². The judge may implement this type of scale to make a more informed and accurate decision about who should be released or not.

Another consideration for judges in the DV court is the added measure of **consistency** to these proceedings afforded by cases being heard by only a few designated judges. One of the criticisms raised in regard to the CJS traditional handling of DV cases is the wide variation within the resolution of DV cases⁵³. Some justices treat DV cases as a severe problem, while others consider it a minor offence. The result is no one, not the crown, the accused, or the victim, knows how severely the judge will treat the charges. The Criminal Code allows for a great deal of leeway when it comes to assault sentencing, and it is left to the judge's discretion to order anything from a suspended sentence to the maximum penalty. The DV court cuts back on variations in sentencing as only designated judges hand down all sentences. Whether they are deemed too lenient or too heavy handed is not a concern, for the DV court what matter is that they are consistent in

⁵¹ Province of Alberta, *Alberta's First Domestic Violence Court Opens in Calgary*. Press Release, (June 7, 2000).

<http://www.gov.ab.ca/can/200006/9248.html>

8 Feb. 2002.

⁵² Province of Alberta (2000), *Ibid*.

⁵³ N.T. Feather, *Domestic Violence, Gender, and Perceptions of Justice*. Sex Roles 35 (1996).

the sentences they hand down⁵⁴. This helps all involved to get a clearer view of what they should expect from the judge, depending on the circumstances of each case.

While sentence variation will no doubt occur, as individual sentences are tailored to meet the needs of each individual case, general patterns will no doubt emerge in each judge's sentencing habits. These consistent patterns benefit the DV court model by introducing **uniformity and equality** in the CJS method of handling DV cases⁵⁵.

DV Court Judges Summary:

- No rotation of judges
- Intensive training on techniques to resolve domestic abuse through pro-active sentencing
- Must arbitrate living arrangements during pre-trial phase
- Creates consistency in the handling of DV cases

DV Court Defense Attorneys

While having a designated number of defense attorneys handling solely DV cases could be advantageous, in reality it would be very impractical – if not impossible – to implement. A large number of defense attorneys in these cases are not public defenders but the defendant's personal counsel. As for those who do receive a court appointed attorney, an argument could be made that, like DV court prosecutors, a specialized group ought to be assigned to the DV cases. The main advantage of this is the focus of DV courts to keep the victim safe. Having the defense attorney operating from the same viewpoint would be beneficial by ensuring the defense is just as interested in securing the best available treatment for their client if found guilty as is the crown⁵⁶. This would increase the chances to reduce future violence, and thereby reduce future involvement of

⁵⁴ Denaro & Karan & Kleilitz (1999), Ibid.

⁵⁵ Tsai (2000), Ibid.

⁵⁶ Danaro & Karan & Keilitz (1999), Ibid.

the CJS. Another advantage is an increased familiarity between prosecutors, defense counsel, and judges, generally results in a quicker handling of cases⁵⁷.

However, there are severe disadvantages to having designated defense attorneys. The primary role of the defense attorney in the CJS is to work in best interests of their client. By shifting the primary goal from their client's interests to victim safety, an argument can easily be made that those charged in the DV court are not given the same opportunities to defend themselves as other defendants⁵⁸. If the main focus of the defense council is to secure the best treatment method for their client then there exists already the assumption that they are guilty. A counter argument to this point can be made that the current practice of soliciting a plea bargain is no different. While this may be true, it is the appearance that the defense council is working for the victim, rather than for the accused, that put the rights of the accused in question when arguing for designated DV court defense attorneys.

As such, the best role for the defense council is that of advocate for the accused. A concern for many defense advocates with the DV court model is that it is biased towards convictions⁵⁹. Thus, by having the defense focused solely on the accused these concerns could be alleviated. The real difference would occur only if the accused is found guilty. At that time the defense attorney **could** pressure the court to hand down a lengthier sentence designed to rehabilitate the offender, rather than for a short incarceration. This differs from a normal courtroom as in regular proceedings, the defense argues for a lighter sentence, whatever the offender perceives that to be. In a DV

⁵⁷ Danaro & Karan & Keilitz (1999), Ibid.

⁵⁸ Lynne Cohen, *Proof Standard in Domestic Violence Courts Too Low*. Law Times 11.26. (2000): p 1, 3.

⁵⁹ Cohen (2000), Ibid.

court, the lightest sentence and the most effective one might not always be one and the same.

Again an argument could be made here that this goes against the rights of the offender, as their attorney would be arguing for a seemingly harsher sentence than one a person charged in a regular court would receive. The counter argument to that is that after the accused is convicted the defense counsel best represents the accused by trying to ensure they will no longer engage in violent behaviour. As this will help prevent their client from re-offending, they are therefore serving the long-term best interests of the client. With so many factors to consider, the ideal role for the defense attorney in a DV court is unclear. Most likely it is best that the position remain unchanged, except perhaps at sentencing, so as to ensure the rights of the accused are not overlooked in the DV court.

DV Court Defense Attorneys Summary:

- Defense counsel's role is to advocate for the rights of the accused and represent the accused at trial
- During the sentencing stage the defense counsel **may** seek a sentence that will help to diminish the chance for recidivism, as opposed to seeking a lighter sentence.

Probation Officers

One of the most important factors to consider in the reduction of domestic violence is the work done by the probation officers. It is their responsibility to ensure offenders are complying with the terms of their sentences. In DV courts many offenders are given sentences consisting of probation instead of incarceration, providing the offender attends mandated counseling⁶⁰. As mentioned earlier, the DV court model requires a **more intensive form of probation**. The offender is generally required to keep

in more regular contact with their probation officer than they typically would in other cases. Also, the probation officer becomes responsible for checking in with the counselor assigned to the offender to ensure that they have in fact been attending and making progress. Studies have shown that DV is a patterned behaviour, and that those who commit it will continue to do so unless they take steps to alter their behaviour⁶¹. At the first sign the offender is not taking these steps it should be a clear indication to the probation officer, and subsequently the court, that they may soon re-offend⁶².

In typical cases involving probation, the probation officer (PO) is occasionally willing to let smaller infractions slip by without retribution⁶³. In many cases this could involve blowing off mandated counseling, as it is considered a low priority. Staying out of trouble, keeping a steady job, and regularly checking in with the PO are considered better indicators of recidivism than counseling attendance⁶⁴. As such, if the offender is keeping their nose clean, so to speak, the PO can be amenable to ignoring what they consider slight slips. It is just not worth the officer's time and is counter-productive to the offender's rehabilitation to have the offender arrested for small infractions.

However in the DV model **counseling is the primary concern**⁶⁵. As mentioned, DV is a patterned behaviour, and if the assaulter is not incarcerated then the only way to prevent future violence is to get them to change their pattern. Counseling not only

⁶⁰ County of San Diego (2002), Ibid.

⁶¹ Leduc (2001), Ibid.

⁶² Ibid.

⁶³ Ellen Malos, *Supping with the Devil? Multi-Agency Initiatives on Domestic Violence Women, Violence & Strategies for Action* eds. Melissa Friedberg & Lynne Harne & Jill Radford (Philadelphia, Open University Press, 2000).

⁶⁴ Ibid.

⁶⁵ Danaro & Karan & Keilitz (1999), Ibid.

represents the best available tool to reduce future violence, but by ensuring the offender's attendance it is the clearest sign that they are taking steps to change their behaviour⁶⁶.

A current problem plaguing PO's is that on average they must deal with more clients than they can effectively handle⁶⁷. This poses a huge problem for introducing any form of intensive probation in our system, as there is simply not enough funding available to employ the number of people necessary to have all clients dealt with in an intensive manner. In dealing with DV cases this would be no different, as the officers are required to invest more time to study the file, meet with the client, and check on counseling attendance. If they are to be more stringent on calling in the client on a breach of probation, it will generally require more time spent filling out reports for the court.

Therefore, a serious attempt to introduce a DV model into a jurisdiction will likely require the addition of extra probation officers. Consequently, probation is the main source of additional costs to the CJS associated with the DV court. Long term however, these costs may be reduced over time as more offenders are rehabilitated, thereby reducing the number of clients as well as lowering the costs to the CJS and other social spending programs listed in the opening table.

Accordingly, as the number increases for DV offenders sentenced to mandated counseling and intensive probation instead of jail time, so do the savings for the CJS. Studies estimate that one abuser treated successfully can save society over \$75 000 in health, social services and criminal justice costs⁶⁸. So, in essence, every person sent to a PO instead of prison basically pays for the yearly salary of one PO. And since PO's now

⁶⁶ Leduc (2001), Ibid.

⁶⁷ John A. Winterdyk. Corrections In Canada: Social Reactions to Crime (Toronto, Pearson Education Canada, 2001).

have client lists that number over a hundred⁶⁹ (granted under the intensive probation model that number drops considerably) the savings made in corrections easily make up for the extra costs expended in probation. Most importantly, an intensive probation officer helps to ensure more efficient treatment methods are being utilized on offenders. This in turn cuts down on the number of violent incidents, which benefits society as a whole in ways that go beyond dollars and cents.

DV Court Probation Officer Summary:

- Ensures the offender is complying with the judge’s sentence, with an emphasis on attendance to and completion of court mandated counseling
- Ordering the offender charged with breach of probation if they do not attend their mandated counseling. This ensures offenders recognize the importance of counseling
- More intensely scrutinize offender’s behaviour. This involves communicating with the offender more regularly as well as checking with the victim and counselors to ensure the offender is meeting the terms of probation.
- Protection of the victim is the main concern of the probation officer. If any early indications of possible recidivism are apparent the PO must take immediate steps (up to and including incarceration) to protect the victim’s safety

Domestic Violence Courts Models

Although there are many variations between the jurisdictions that have established

DV courts, there exist two basis components to DV courts:

- 1) Early intervention
- 2) Coordinated Prosecution

Early Intervention

Early intervention is designed for first-time offenders accused of incidents where no serious injury occurs, no weapon is used and no significant harm has befallen the victim. If the accused agrees to plead guilty they receive immediate treatment designed

⁶⁸ Family Violence Committee, *Family Violence: Breaking the Cycle*. Mayor’s Task Force on Safer Cities (1991).

⁶⁹ Winterdyk (2001), Ibid.

to address their violent behaviour. The program is set up for accused who recognize they have a problem, are willing to take responsibility for their actions, and who want to seek help so they can break their pattern of violence.

In this model the differences between the DV court and a regular courtroom are most apparent. The DV court seeks to divert the accused away from a regular trial setting. This will in turn reduce the emotional strain, stigma, and trauma both the accused and the victim have to endure⁷⁰. Getting a motivated offender into treatment as quickly as possible, while at the same time attempting to reduce the stress trials have on a marriage, goes a long way toward reducing the likelihood of additional violence⁷¹.

Coordinated Prosecution

The Coordinated Prosecution model is designed for accused with a history of violence against the victim. It involves incidents deemed too severe to be handled by intervention, and is for those who plan to plead not guilty to the charges brought against them. It is in this instance that the crown attorney's specialization is of utmost importance. Here the prosecution will present all available evidence to more effectively prosecute the case. It will also be up to the crown attorney to try to ensure the cooperation of the victim at trial. If, however, the victim is not willing to testify the prosecution must still do its best to present a formidable case.

In such cases, where either the accused is unwilling to take responsibility for their actions, or the incidents are so severe that some form of incarceration is seen as necessary, it is important for the court to show offenders their behaviour will not be

⁷⁰ Allen & Corcoran & Perryman & Stephenson (2001), Ibid.

⁷¹ Light & Rivkin (1996), Ibid.

tolerated and that there will be repercussions. While this may strike some as being too prosecutorial a stance for a neutral court of law, proponents argue this is not the case. Actual punishments do not occur until sentencing is handed down, and then only if the accused is found guilty. In the pre-trial setting the accused is faced with no more hardship than if they were prosecuted in a regular courtroom⁷². And as the cases are tried faster in DV court, it is in their best interest as they are finished with the ordeal sooner. Thus, training the crown attorneys to utilize new techniques to obtain a conviction does not interfere with the accused's right to a fair trial. It simply improves the efficiency of that trial.

Integrated Family Court

An interesting twist on the DV court model has been established in many jurisdictions across North America. Called integrated family courts, these handle any and all cases dealing with domestic problems. These include custody orders, domestic violence, restraining orders between spouses, cases involving abuse, and so on. These courts take the idea of specialization a step further. While Family Courts are standard in many jurisdictions, these courts deal with family incidents that involve criminal charges.

Here, these issues are considered family troubles first, and while they will be treated as seriously as any other criminal charge, they will be resolved in a manner that reflects the best interests of all parties involved⁷³. Within domestic violence and abuse by family member cases, there are certain dynamics that liken them more to cases dealt with by Family Courts than other criminal charges. It is then felt that due to the

⁷² New York Law Journal (2001), Ibid.

⁷³ Tsai (2000), Ibid.

experience of judges and attorneys in these matters they would be best suited to handle cases of this nature⁷⁴.

The problem that these specialized courts face is that this combination runs the risk of undoing the very thing they were meant to achieve. Family courts in their present incarnation were established to manage a specific segment of law best handled through specialized procedures and a stable cadre of judges familiar with the intricacies of family law. The desire to establish DV courts stems from a similar ideology: a stable cadre of lawyers and judges handling a specific segment of criminal law. Combining the two into one courtroom broadens the scope responsibilities and thereby reduces the specialization of the courtroom⁷⁵. While the two categories certainly appear to be similar – they deal with the same basic participants, many of the root issues are the same, and often the two are interrelated (e.g. a parent fighting for custody in a marriage that is dissolving due domestic violence) - they do in fact deal with different segments of the law. As such, the result of making one group of people responsible for all of it – as they are in a standard courtroom – inhibits the streamlining and efficiency goals of the DV court.

How Effective are Domestic Violence Courts?

Since the establishment of Domestic Violence Courts is a relatively new innovation, no long-term studies have yet been completed on their efficiency. However the preliminary results are promising. So promising, in fact, that after setting up a preliminary site in Toronto, the Ontario provincial government established 8 additional sites in the Southern Ontario Region. In 2001 the government expanded upon this by

⁷⁴ Tsai (2000), Ibid.

⁷⁵ Ibid.

committing to establishing a DV court in each of the 54 separate court districts throughout the province, pledging \$10 million to get the program up and running⁷⁶.

One of the first DV courts was established in the San Diego, California, area in the early 1990's. It's one of the few courts with a sufficient history to produce longitudinal data on the effects of the DV courts. Some of the major findings were that there was a 44% drop in overall recidivism for offenders within 2 years of their conviction, and that offenders were 56% less likely to have a subsequent DV charge than did before the court was established. Furthermore, the court appears to be more efficient, with a 74% reduction in the time between the filing of a charge and the final disposition⁷⁷.

Some of the factors contributing to that huge decrease is the 33% reduction in the number of hearings prior to the final disposition, as well as a 29% reduction in the number of cases settling on the day of the trial, and a 50% reduction in cases going to a full trial⁷⁸. However as these cases are resolved more quickly, an equally important occurrence is that there has been a 72% reduction in the time between a judge assigning counseling to the offender and the commencement of treatment, a drop from 90 to 25 days⁷⁹. This has prevented a massive backlog of offenders waiting for spots to open up so they can begin their counseling. In doing so it improves the safety for the victim by

⁷⁶ Ontario Attorney General (2001), Ibid.

⁷⁷ County of San Diego, San Diego Domestic Violence Court:
<http://www.sandiegodvunit.org>

11 Jan. 2002.

⁷⁸ Ibid.

⁷⁹ Ibid.

reducing the window between judiciary involvement and the beginning of treatment, which has been shown to be when many victims are at the most risk⁸⁰.

Another jurisdiction that has had success with the DV court is the state of New York. In 1996, it established the Brooklyn Domestic Violence court as pilot project, which was later followed by another test site in Rensselaer County, the success of which has led for some to call for an expansion of the program⁸¹. In 1999 the NY specialized courts reported 76% of all those convicted by the court have had no further incidents of spousal assault while on probation⁸². In the year 2000, that figure rose to 82%. In addition, the courts have an astounding conviction rate, 87% of all cases result in a guilty plea or finding at trial⁸³.

In Canada, the most extensive DV program exists in Ontario. Other programs include a pilot court recently established in Calgary, as well as an integrated family court that has been operating out of Winnipeg for quite a few years. The Women's Abuse Council of Toronto initiated a Court Watch program to evaluate the effectiveness of two DV court pilot projects established in the Toronto area, compared to standard court treatment of Domestic Violence cases. The two pilot courts were the "K-court" located at the Old City Hall building, and the North York specialized court. The North York court was a plea court, thus only those planning to plead guilty attended there. The overwhelming majority of those cases are eligible for the "early intervention" method of resolving DV cases.

⁸⁰ Byron Johnson & Michael Town & Neil Websdale, *Domestic Violence Fatality Reviews: From a Culture of Blame to a Culture of Safety*. *Juvenile and Family Court Journal* (Spring, 1999).

⁸¹ *Court Program Going Well*. *The Times Union* (Dec. 27, 2001).

<http://www.timesunion.com/AspStories/story.asp?storyKey=73581&category=C>

9 Jan. 2002.

⁸² *New York Law Journal* (2001), *Ibid.*

⁸³ *New York Law Journal* (2001), *Ibid.*

The K-Court, meanwhile, focused on the coordinated prosecution model. In two Court Watch studies performed over successive years, the initial results gathered indicate that the specialized courts are handling the DV cases more effectively than standard courts had been⁸⁴. The specialized courts achieved significantly lower levels of dismissals or withdrawn charges, and doubled the conviction rates compared to DV assault trials tried in standard courts in the area over the same time period⁸⁵. Table 2 breaks down some of the glaring disparities between the specialized and the non-specialized courtrooms that were observed by a Court Watch Program initiated by the Woman's Abuse Council of Toronto.⁸⁶

Table 2

Result of DV related charge	Specialized Courts	Other Courts
Not Guilty/ Dismissed	7%	25%
Charges Withdrawn	9%	25%
Guilty Verdict	76%	38%

The specialized courts also set stiffer sentences for instances of DV. Nearly 30% of those convicted in DV court were sentenced to incarceration for an average term of 90 days. Previously only 13% of those convicted of a similar crime were sentenced to a

⁸⁴ Woman's Abuse Council of Toronto (2001), Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid.

prison term of that length⁸⁷. Also, 78% of those convicted for incidents of Domestic Violence were sentenced to court mandated counseling by the DV courts⁸⁸.

The courts are also effectively clamping down on those who continue to assault their spouses after they are convicted, as 75% of those charged with breaching probation are convicted of it at trial⁸⁹. As well in 50% of all breach cases the accused is kept in custody until the trial is resolved⁹⁰. In addition, in 37% of cases the accused was remanded into custody until the time of the trial⁹¹. These strict measures prove the court is taking the problem of domestic violence seriously, and that it is trying to keep victims safe by keeping potential offenders incarcerated until the trial is resolved.

Other interesting findings at the specialized courts include the revelation that at 64% of cases the victim was present at trial, while in 33% of all cases the victim testified⁹². Also of note, in specialized courts the crown puts a greater effort into using other forms of evidence, aside from witness testimony. In 87% of cases some form of additional evidence was introduced, while in 55% of cases, more than one form was presented⁹³.

In addition to these findings there has been a steady stream of data related to rehabilitating DV offenders. The results of which appear to interweave well with the theories behind DV courts, which stress non-traditional methods for resolving DV incidents. While there is a great amount of variation in between many of the studies dealing with rehabilitation, in general it is estimated that court mandated counseling is

⁸⁷ Woman's Abuse Council of Toronto (2001), Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Ibid

⁹³ Ibid.

53%-85% effective in reducing future offending behaviour⁹⁴. In one study comparing counseling to other forms of sentencing, 33% of DV offenders re-offended when given counseling, while 70% of those who did not receive counseling later re-offended⁹⁵.

While that in itself is a huge difference, one study done by Dutton showed that only 4% of those who complete their counseling program are found to have another violent offence⁹⁶. This is compared to 40% of those who receive counseling but do not finish their treatment⁹⁷. This number is particularly important because in the US, where these studies were performed, there is an average drop out rate of 40-60% in counseling programs with as few as 10% of those who enter the counseling ever completing it⁹⁸. In a DV court model all those given treatment as a sentence must complete their therapy or they will be incarcerated. This allows for the possibility to drastically reduce the amount of recidivism in domestic violence cases.

A further point of interest is that a study done in Duluth MN indicated that women whose spouses were convicted for domestic violence and sentenced to mandated counseling had lower abuse rates and higher degree of well being than did women whose abusive spouses volunteered for counseling to help them with their problem⁹⁹. The effects seem to be long lasting as well, 83% of spouses reported feeling safer after 30 months of the conviction in cases where the judge mandated counseling and the offender

⁹⁴ Leduc (2001), Ibid.

⁹⁵ Ibid.

⁹⁶ D.G. Dutton, *The Outcome of Court-Mandated Treatment for Wife Assault: A Quasi-Experimental Evaluation* *Violence & Victims* 1(1986).

⁹⁷ Dutton (1986), Ibid.

⁹⁸ E.W. Gondolf, *Batterer Programs: What We Know and Need to Know*. *Journal of Interpersonal Violence* 12.1. (1997).

⁹⁹ Duluth Program Evaluation Activities at the Duluth Domestic Abuse Intervention Project (Oct. 2001). <http://www.duluth-model.org/daipeval.htm>

9 Jan. 2002.

entered the program¹⁰⁰. The evidence is mounting in favour of the argument that an offender who is not self-motivated to end their violent behaviour is by no means an insurmountable obstacle in reducing their violent tendencies¹⁰¹.

Domestic Violence Courts in British Columbia

The paradigm shift in the 1980's resulted in a change in the way that police forces across North America handled calls for assistance in DV cases. With the creation of the mandatory arrest policy in many jurisdictions, DV has become the fastest growing aspect of police officer's workload¹⁰². And while society still tends to treat DV as an "in-house" concern, advances have been made in removing the veil of secrecy that surround this societal problem. However, the glimpses revealed once the veil is lifted show the problem is much more prevalent than many had assumed. As mentioned earlier, in British Columbia 52% of all women had experienced some form of spousal abuse in their lifetime. The costs of these high levels of abuse are just starting to be recognized. In the United States, for example, domestic violence is the leading cause of injury for women aged 15-44¹⁰³. With this knowledge one can only begin to guess at the financial drag DV places on the US economy with health care and sick leave costs, let alone the immeasurable cost of human suffering.

In B.C., government attempts to calculate the total cost DV has on the province resulted in a 1996 study that placed the price tag at \$1 billion annually to taxpayers of this province¹⁰⁴. This number does not include expenditures by the Federal Government

¹⁰⁰ Leduc (2001), Ibid.

¹⁰¹ Ibid.

¹⁰² Denaro & Karan & Keilitz (1999), Ibid.

¹⁰³ Hyman (1999), Ibid.

¹⁰⁴ Kerr & McLean (1996), Ibid.

to combat the problem in Canada¹⁰⁵. The figures are truly astronomical. Action must be taken to reduce this silent epidemic infecting the province and the citizens affected both directly and indirectly by it. The DV court is a proven tool in the fight against this problem, with a focus on reducing the number of violent incidents by whatever means the judge believes will diminish the offender's violent behaviour. Furthermore, the emphasis is on the victims' safety, with a mandate to stop the abuse against the victim. It is here that DV courts differ from a regular courtroom, where criminal actions are treated as trespasses against society as a whole and the offender's punishment is a means of paying a debt to society¹⁰⁶.

In DV courts however, criminal acts are seen first and foremost as crimes against partners¹⁰⁷. This is not unlike alternative sentencing initiatives that have become popular in many aboriginal and northern communities in Canada. In circle sentencing, for instance, crimes are seen as offences against the victim and others within the community directly affected by the criminal act. Sentences are structured to repay the harm done to those affected, with the punitive aspect given less priority. It is a judicial model known as **therapeutic jurisprudence**, as society uses the legal system to help solve the social ills of those in need.¹⁰⁸ DV courts operate on a similar philosophy, with punishment replaced in most cases with supervised counseling, a proven technique for reducing violent behaviour¹⁰⁹. When the DV court incarcerates an offender, it is done not simply

¹⁰⁵ Kerr & McLean (1996), Ibid.

¹⁰⁶ Allen & Corcoran & Perryman & Stephenson (2001), Ibid.

¹⁰⁷ Arthur J. Lurigio & Loretta J. Stalans, *Public Preferences for the Court's Handling of Domestic Violence Situations*. *Crime & Delinquency* 41.4. (Oct. 1995).

¹⁰⁸ Tsai (2000), Ibid.

¹⁰⁹ Leduc (2001), Ibid.

for punishment but in those instances when the judge feels the only way to ensure the victims safety is incarceration.

Besides the humanitarian aspect of wanting to lessen incidents of Domestic Violence in the province, the government also has a vested interest in reducing incidents. The fiscal costs are simply too high to allow this problem to continue, and the importance of reducing the rising economic burden DV places on B.C.'s economy, particularly in a time of cuts to the CJS, is self evident. While there will certainly be some initial costs associated with launching a DV court system in the province, overall they may prove to be negligible. After all, DV courts do not require a new court so much as they merely divert a number of current court staff to participate in DV cases and changing the dynamics, not the physical structure, of how the court operates. While a DV court will require funds for staff training and hiring additional probation/parole officers for the more intensive supervision of offenders, these costs are absorbed many times over in the savings reduced recidivism brings.

A further advantage to creating a DV courtroom is that as DV becomes less and less tolerated by society, more and more incidents of abuse are going to be reported to the authorities. This trend has already been noted in police jurisdictions throughout North America, and there is no indication that rising report levels will drop off anytime soon¹¹⁰. In the current court model these additional cases will only bring more delay, congestion and confusion to already crowded court docket. The existence of a DV courtroom allows the CJS to quickly and efficiently accommodate these cases, thereby decreasing the amount of time needed to process DV charges, even as the number brought before the courts attention increases.

The DV courtroom experiment in Ontario has thus far been a success. This is important for local proponents of DV courts because the political climate in the two provinces is similar. The original Ontario DV pilot program was introduced at a time when the provincial government was implementing cutbacks in nearly every sector of government spending. Furthermore, the expansion of the program throughout the province shows that the Ontario Attorney General deemed the DV court model to be a more effective and efficient method of handling DV charges in the province, than the traditional methods. The results garnered thus far in Ontario, and supporting data from other jurisdictions that have implemented DV courts, seems to justify their decision¹¹¹. There is a marked difference in between the conviction and recidivism rates of DV courts and regular courtrooms, with DV courts results being higher for the former and lower for the latter¹¹².

As such this paper respectfully suggests that, as a pilot project the B.C. provincial government institute one or more DV courts within the lower mainland. These test sites will allow for a practical examination to see whether or not DV courts can work effectively in B.C., and if they prove to be effective, could be expanded not only in the lower mainland but throughout the entire province as well. The province of Alberta recently utilized this technique, instituting a pilot project in the city of Calgary. They are currently evaluating its effectiveness¹¹³.

Such test sites are important because they allow the provinces to develop effective guidelines and techniques for their courts, and create a system by which the unique

¹¹⁰ Denaro & Karan & Keilitz (1999), Ibid.

¹¹¹ Woman's Abuse Council of Toronto (2001), Ibid.

¹¹² Ibid.

¹¹³ Province of Alberta (2000), Ibid.

aspects of the DV court model can be implemented into their Criminal Justice System. Starting with a small pilot project before province-wide implementation is an important step, as each province has its own unique administrative structure to oversee the CJS in individual provinces. For the DV courts to work effectively they must find a way to mesh cohesively those aspects that have been successful in other areas with the structures already in place in the local CJS. Only in this way can the varying aspects that make up a comprehensive DV court model, from the crown office to the judiciary, to Correction Canada, be effectively implemented within this province.

The problem of DV in B.C. is simply too large and too costly to allow the status quo to continue. The current method of handling DV cases is not meeting the needs of victims of these horrible acts, nor of society, which suffer the financial consequences of these actions. As more and more research emerges, DV courts are quickly moving from a promising innovation to a proven technique. While not a panacea for solving all incidents of DV, what these courts do offer is a more effective process for DV incidents brought to the attention of the CJS. In the current political climate of this province, DV courts represent a brilliant balance between the humanitarian desire to reduce the amount of victimization, and the need for stricter financial management by the provincial government. In short, Domestic Violence courts work to reduce the overall burden that DV places on the victims, the taxpayers, and the government of this province.

Bibliography

- Ackerman, Jeff. & Richard B. Felson. *Arrest for Domestic and Other Assaults*. Criminology 39.3. (2001): 655-672.
- Allen, Shannon & Jacqueline Corcoran & Derrelyn Perryman & Margaret Stephenson. *Perceptions and Utilization of a Police-Social Work Crisis Intervention Approach to Domestic Violence*. Families in Society: The Journal of Contemporary Human Services (2001): 393-398.
- British Columbia Ministry of the Attorney General Survey of spousal Assaults Reported to the Police in 1995 in B.C., Police Services Edition. (Victoria, Queen's Printer, 1995).
- British Columbia Ministry of Women's Equality. *Is Anyone Listening? Report of the BC Task Force on Family Violence*. (Victoria, Queen's Printer, Feb. 1992).
- Burris, C.A. & P. Jaffe. *The Response of the Criminal Justice System to Wife Abuse Report to the Solicitor General of Canada*, (Ottawa: Queen's Printer, 1991).
- Caspi, Avshalom & Jeff Fagan & Robert F. Krueger & Terrie E. Moffitt. *Partner Abuse and General Crime: How are They the Same? How are They Different?* Criminology 38.1 (2000): 199-227.
- Center For Court Innovation The Brooklyn Felony Domestic Violence Court.
http://courttinnovation.org/demo_04bdvc.html
9 Jan. 2002.
- Chaney, Carole Kennedy & Grace Hall Saltzstein. *Democratic Control and the Bureaucratic Responsiveness: The Police and Domestic Violence*. American Journal of Political Science 42.3. (July, 1998): 745-767.
- Cohen, Lynne. *Proof Standard in Domestic Violence Courts Too Low*. Law Times 11.26. (2000): p 1, 3.
- County of San Diego. Madge Bradley Family Violence Solutions Center.
<http://www.sandiegodvunit.org/madge.htm>
11 Jan. 2002.
- County of San Diego, San Diego Domestic Violence Court:
<http://www.sandiegodvunit.org>
11 Jan. 2002
- Court Program Going Well*. The Times Union (Dec. 27, 2001).
<http://www.timesunion.com/AspStories/story.asp?storyKey=73581&category=C>
9 Jan. 2002.
- Davis, Robert C. & Laura B. Nickles & Barbara E. Smith. *The Deterrent Effect of Prosecuting Domestic Violence Misdemeanors*. Crime & Delinquency 44.3. (July, 1998): 434-442.
- Davis, Robert C. & Laura Nickles & Barbara E. Smith. *Prosecuting Domestic Violence Cases with Reluctant Victims: Assessing Two Novel Approaches in Milwaukee*. Report to the National Institute of Justice (1997).
<http://www.ncjrs.org/textfiles/171666.txt>
16 Jan. 2002.

- Denaro, Sharon & Amy Karan & Susan Keilitz. *Domestic Violence Courts: What Are They and How Should we Manage Them?* Juvenile and Family Court Journal (Spring, 1999: 75-86).
- Domestic Violence Court Marks Fifth Year* New York Law Journal (June 12, 2001).
<http://www6.law.com/lawcom/displayid.cfm?statename=NY&docnum=68071&table=news&html>
 9 Jan. 2002.
- Duluth Program Evaluation Activities at the Duluth Domestic Abuse Intervention Project (Oct. 2001).
<http://www.duluth-model.org/daieval.htm>
 9 Jan. 2002.
- Dutton, D.G. *The Outcome of Court-Mandated Treatment for Wife Assault: A Quasi-Experimental Evaluation* Violence & Victims 1(1986).
- Family Violence Committee. *Family Violence: Breaking the Cycle*. (1991) Mayor's Task Force on Safer Cities (1991).
- Feather, N.T. *Domestic Violence, Gender, and Perceptions of Justice*. Sex Roles 35 (1996): 507-519.
- Gondolf, E.W. *Batterer Programs: What We Know and Need to Know*. Journal of Interpersonal Violence 12.1. (1997).
- Hyman, Eugene M. *The Courts and Domestic Violence*. Lawyer's Weekly 19.24. (Oct. 29, 1999): p.4.
- Johnson, Byron & Michael Town & Neil Websdale. *Domestic Violence Fatality Reviews: From a Culture of Blame to a Culture of Safety*. Juvenile and Family Court Journal (Spring, 1999): 61-74.
- Kerr, Richard & Janice McLean. *Paying for Violence: Some of the Costs of Violence Against Women in BC*. Report to the Ministry of Women's Equality. (Victoria, BC: Queen's Printer, 1996).
- King County, Washington King County District Court Domestic Violence Courts (June 6, 2000).
<http://www.metrokc.gov/news/060600a.htm>
 11 Jan. 2002.
- Joint Committee on Domestic Violence. *Working Towards a Seamless Community and Justice Response to Domestic Violence: A Five Year Plan for Ontario*. Report to the Attorney General of Ontario. (August, 1999).
- Leduc, Tim. *Review of the Effectiveness of Partner Abuse Intervention Programs*. Literature Review and Research Assessment for the Woman Abuse Council of Toronto and the Partner Abuse Referral Programs. (2001).
- Light, Linda & Shelly Rivkin. *Power Control and Violence in Family Relationships: A Criminal Justice Response*. Stopping The Violence: Changing Families, Changing Futures Edited by Gloria Gutman & Jill Hightower & Mary Rusell (Vancouver, B.C. Institute on Family Violence, 1996): 175-184.
- Lurigio, Arthur J. & Loretta J. Stalans. *Public Preferences for the Court's Handling of Domestic Violence Situations*. Crime & Delinquency 41.4. (Oct. 1995): 399-413.
- Malos, Ellen. *Supping with the Devil? Multi-Agency Initiatives on Domestic Violence* Women, Violence & Strategies for Action eds. Melissa Friedberg & Lynne Harne & Jill Radford (Philadelphia, Open University Press, 2000): 120-135.

Ontario Attorney General. Implementing the Domestic Violence Court Program (Toronto, Queen's Printer, Oct. 2001).

Ontario Attorney General, *Province Wide Expansion of Domestic Violence Courts* Press Release, (Sept. 26, 2001).

http://www.mndm.gov.on.ca/MNDM/pub/newrel/nr01/093_01e.asp

9 Jan. 2002.

Province of Alberta, *Alberta's First Domestic Violence Court Opens in Calgary*. Press Release, (June 7, 2000).

<http://www.gov.ab.ca/can/200006/9248.html>

8 Feb. 2002.

Statistics Canada Family Violence in Canada: A Statistical Profile, (Ottawa, Queen's Printer, 1999).

Tebo, Margaret Graham. *Standing Up For Victims*. ABA Journal. (October, 2000): 94.

Tsai, Betsy. *The Trend Toward Specialized Domestic Violence Courts: Improvements on an Effective Innovation*. Fordham Law Review 68 (2000); 1283-1327.

Ways to Stop Family Violence Need to be Evaluated. Public Health Reports 113 (May/June 1998): 198-199.

Winterdyk, John A. Corrections In Canada: Social Reactions to Crime (Toronto, Pearson Education Canada, 2001).

Woman Abuse Council of Toronto. *Toward a More Accountable and Supportive Court Response*. The Women's Court Watch (June 1999).

Woman Abuse Council of Toronto. *Report on First Year Data Collection Old City Hall Court*. Women's Court Watch Project III (2001).