
Keeping Women Safe: Eight Critical Components of an Effective Justice Response To Domestic Violence

Prepared by the Critical Components Project Team

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Executive Summary

This paper outlines a framework for a comprehensive approach to domestic violence that best meets the diverse needs of communities in British Columbia. It is widely recognized that violence against women in their intimate relationships is a serious, widespread, costly, and sometimes deadly problem for women, their children, the men who abuse them, and for society as a whole. According to the 2004 Statistics Canada General Social Survey (GSS), 7% or approximately 653,000 women were victims of some form of violence by a current or previous partner in the five years up to and including 2004. Women are more likely than men to be the victims of domestic violence, and much more likely than men to be the victims of severe violence (Randall, 2003; Statistics Canada, 2005).

Research indicates that victimization rates in Canada are much higher among Aboriginal than non-Aboriginal people. The 2004 GSS found that Aboriginal people were three times more likely than non-Aboriginal people to be victims of domestic violence.

National statistics on domestic violence amongst immigrants are somewhat unreliable for a number of reasons. However, Statistics Canada figures indicate that spousal violence rates for immigrant women are lower than for non-immigrant women. (Johnson, 2006.) In any case, social isolation, lack of information about rights and available services, lack of English language skills and lack of services in their own language, immigration and sponsorship issues, poverty, and lack of support from their cultural community increase the vulnerability of abused immigrant women (Light, 2007 a & b; Smith, 2004).

Current, reliable data regarding the experience of domestic violence among other marginalized groups – for example, gay, lesbian, bisexual, and transgender people; women who are poor; and women who have disabilities are also difficult to access (Johnson, 2006).

A woman's reluctance or fear of proceeding through the criminal justice system is often referred to as the most persistent challenge in cases of domestic violence. Women who are fearful of proceeding are described as "reluctant", "uncooperative" or "hostile" witnesses. But women's fears may be rational reactions to the realities of their lives and what they know about the justice system. Inability or unwillingness to cooperate with a criminal prosecution should be recognized as a potential safety concern. A preoccupation with victim "cooperation" detracts from the basic need to ensure the victim is safe.

The project has identified eight critical components of an effective specialized justice response to domestic violence. These are based on research and evaluations of

coordinated approaches to service delivery for victims and offenders in other jurisdictions and criteria outlined in the *Final Report of the Ad Hoc Federal/Provincial/Territorial Working Group Reviewing Spousal Abuse Policies and Legislation* (2003). The paper also includes recommended actions that will help ensure the successful development and implementation of these critical components province-wide.

Crucial to this project is how the framework might best be utilized by the BC government to improve responses to domestic violence in both the short- and the long-term. The goal is that:

- Every BC community will incorporate these eight components into a coordinated response to domestic violence and have the capability of doing so.
- Every community will implement these eight components in a way that makes sense for that community, responding to circumstances, needs, and priorities in that particular community.
- All government funding to address domestic violence will be directed to these components, individually or as a “package”, in order to ensure that funding strategies are developed and implemented in a consistent, coordinated manner province-wide and that funding responds to needs identified on the basis of the best available evidence, rather than on an ad hoc basis.
- Other initiatives that may impact families affected by violence, including reviews of family law and the family justice system, consider these components and recommended actions.

Critical components of an effective response

In any community, the critical components of a framework for an effective, specialized response to domestic violence must include effective, inclusive approaches to:

1. ***Managing risk and victim safety*** – including a comprehensive, coordinated approach to risk and safety assessment and victim safety planning
2. ***Offender accountability*** – including appropriate and consistent sentencing, consistent enforcement of protection orders, and accessible treatment for abusers
3. ***Specialized victim support*** – including comprehensive, proactive, and timely support with outreach and access for marginalized groups
4. ***Information-sharing*** – including consistent, timely information-sharing between agencies and with the victim, with particular emphasis on high-risk cases
5. ***Coordination*** – including coordination and collaboration at all levels among all relevant sectors, senior level leadership, and resources to adequately support a coordinated approach

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6. ***Domestic violence policy*** – including adherence to a comprehensive justice system policy that applies to all justice system components and requires a consistent and informed approach to charging, prosecution, and offender accountability
7. ***Use of specialized expertise*** – including specialized approaches such as dedicated justice system personnel and dedicated court time, adequately funded specialized training, and if they are considered an option, a carefully considered and principled approach to domestic violence courts
8. ***Monitoring and evaluation*** – including monitoring and evaluation as an integral part of all the foregoing critical components and a systematic, comprehensive approach to collection, analysis, and publication of statistics across all justice system components.

1. Introduction

1.1 Purpose of the project

This paper outlines a framework for a comprehensive approach to domestic violence¹ that best meets the diverse needs of BC communities. The project has identified eight critical components of an effective specialized justice response to domestic violence. These are based on research and evaluations of coordinated responses to domestic violence and criteria outlined in the *Final Report of the Ad Hoc Federal/Provincial Territorial Working Group Reviewing Spousal Abuse Policies and Legislation* (2003). The paper also includes recommended actions to help ensure the successful development and implementation of these critical components province-wide.

Crucial to this project is how the framework might best be utilized by the BC government to improve responses to domestic violence in both the short- and long-term. The goals are that:

- Every BC community will incorporate these eight components into a coordinated, inclusive response to domestic violence and have the capacity to do so.
- Every community will implement these eight components in a way that makes sense for that community, responding to circumstances, needs, and priorities in that particular community.
- All government funding to address domestic violence will be directed to these components, individually or as a “package”, in order to ensure that funding strategies are developed and implemented in a consistent, coordinated manner province-wide and that funding responds to needs identified on the basis of the best available evidence, rather than on an ad hoc basis.
- Other initiatives that may impact families affected by violence, including reviews of family law and the family justice system, will consider these components and recommended actions.

An action or business plan that adheres to these principles will ensure that the most effective use is made of existing and new funding, that new initiatives build on existing successful initiatives, and that province-wide consistency can be achieved while respecting local autonomy and priorities.

¹ For purposes of this paper, the definition of domestic violence is the same as that in the *Violence Against Women in Relationships Policy* of the Ministries of Attorney General and Public Safety and Solicitor General. The gender neutrality of this term is not intended to obscure the fact that women are the victims in the vast majority of domestic violence cases. Randall (2006) provides strong legal and practical arguments for retaining a gender focus on this crime. The gendered nature of domestic violence has been recognized in law (see, for example, *R. v. Lavallee*, [1990]).

Within the context of this framework, innovative ways must be found to address challenges associated with the shared goals of victim safety and offender accountability.

The principled approach proposed here will provide BC with a unique strategy for addressing domestic violence, placing the province at the forefront of the struggle to find creative, effective, inclusive, and fiscally responsible ways to tackle this serious problem.

1.2 Magnitude of the problem

According to the United Nations Population Fund... Gender-based violence is perhaps the most wide-spread and socially tolerated of human rights violations. (Johnson, 2006).

It is widely recognized that violence against women in their intimate relationships is a serious, widespread, costly, and sometimes deadly problem for women, their children, the men who abuse them, and for society as a whole.

Women are more likely than men to be the victims of domestic violence, and much more likely than men to be the victims of *severe* violence (Randall, 2003; Statistics Canada, 2005).² In Canada, according to the 2004 Statistics Canada General Social Survey (GSS), 7% or approximately 653,000 women were victims of some form of violence by a current or previous partner in the five years up to and including 2004. Compared to men, women were more likely to report more serious forms of abuse, more than twice as likely to suffer injury, and more than six times as likely to seek medical attention as a result of the abuse (Statistics Canada, 2005).

In BC, police statistics tell an equally alarming story.

- In 2005, there were 10,273³ incidents of spousal assault reported to police in British Columbia, a 9% increase from the 9,417 reported in 2004. From 2004 to 2005, the rate of spouse assault rose 8% to 2.4 per 1,000 population.
- In 2005, 74% of police reported spouse assault incidents involved a male offender, 16% involved a female offender, and 10% involved both spouses.
- In 2005, *Criminal Code* assault offences associated with incidents of spouse assault accounted for 26% (11,094⁴) of all police reported assaults (Ministry of Public Safety and Solicitor General, Police Services Division, 2006a).

² Women who do use violence against their intimate partners are more likely than men to use violence out of fear and a need to protect themselves (Maiuro et al, 2001; Randall, 2003; Saunders & Browne, 2000).

³ This is the number of police-reported criminal incidents flagged as also reporting spousal assault. Any number of crimes or offences can occur within the context of a criminal incident, and as a result, any spousal assault incident can contain multiple offences depending upon the number of victims involved.

⁴ This is the number of assault offences occurring within criminal incidents flagged as reporting spousal assault. This should be interpreted as 11,094 assault offences recorded within the context of 10,273 criminal incidents reporting spousal assault. The number of offences associated with incidents reporting spousal assault will always exceed the count of those types of incidents.

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In the 2005/06 fiscal year, spouse assault accounted for more requests for victim services than any other offence. In that year, 21,197 BC victims of spouse assault requested services from a victim service program (Ministry of Public Safety and Solicitor General, Victim Services and Crime Prevention Division, 2006b).

In 2006, 12% or approximately 1 in 8 prosecutions in BC were domestic violence cases. This does not include those returning to court on breaches of orders as a result of prosecution for domestic violence (Ministry of Attorney General, Criminal Justice Branch, 2007). However, the situation is even worse than these statistics indicate as most spouse assault incidents are not reported to police. The results of the 2004 GSS on Victimization indicate that only 28% of victims of spousal violence (36% of female victims and 17% of male victims⁵) reported these incidents to police (Statistics Canada, 2005, July 14). A recent Statistics Canada study of spousal homicide in Canada found that in 74% of spousal homicides there had been no prior offender contact with the police (Statistics Canada, 2007). This finding demonstrates an urgent need for community education and outreach as a tool for early intervention and prevention.

Research indicates that victimization rates are much higher among Aboriginal than non-Aboriginal people in Canada. The 2004 GSS on Victimization found that Aboriginal people were three times more likely than non-Aboriginal people to be victims of domestic violence. Twenty-four percent of Aboriginal women said that they had been victims of domestic violence in the five-year period ending in 2004. (Statistics Canada, 2005, July 14). Geographic isolation, lack of access to services, lack of transportation, and poverty may heighten risk for Aboriginal women. Research conducted in 2006-07 by Victim Services and Crime Prevention Division of the Ministry of Public Safety and Solicitor General on the needs of Aboriginal victims of crime provides concrete ideas for increasing support to this population, including domestic violence victims (Hunt, 2007).

National statistics on domestic violence amongst immigrants are somewhat unreliable for a number of reasons, including the fact that they are based on telephone surveys of people who speak English or French. However, Statistics Canada data indicate that spousal violence rates for immigrant women are lower than for non-immigrant women (Johnson, 2006). In any case, we know that social isolation, lack of information about rights and available services, lack of English language skills and lack of services available in their own language, immigration and sponsorship issues, poverty, and lack of support from their cultural community increase the vulnerability of abused immigrant women (Light, 2007 a & b; Smith, 2004). This particular vulnerability has been tragically illustrated by recent murders and serious assaults of South Asian women in BC. Empowerment of immigrant and refugee women who are victims of domestic violence is the subject of a recent report produced by the Justice Institute of BC (Light, 2007b).

⁵ When considering this differential between women's and men's reporting rates, it is important to remember, that men's violence towards women is significantly more severe than women's violence towards men.

Current, reliable data regarding the experience of domestic violence among other marginalized groups – for example, gay, lesbian, bisexual, and transgender people; women who are poor; and women who have disabilities are also difficult to access (Johnson, 2006). It is acknowledged, however, that these groups are also particularly vulnerable to the effects of domestic violence.

The financial costs of violence against women are enormous. A current, longitudinal study in Canada estimates the costs of violence against women to the Canadian health and social systems to be \$5.2 billion a year (Varcoe, 2006). The World Health Organization report, *The Economic Dimensions of Interpersonal Violence* (World Health Organization, 2004) documents the heavy costs of violence against women from the perspective of public health economics.

Domestic violence has significant intergenerational repercussions. The human and financial costs of domestic violence are not confined to the women themselves: patterns of violence are potentially learned and repeated by children who witness violence against their mothers. Statistics kept by the New Westminster Domestic Violence Response Team (DVRT) indicate that in 60 - 70% of their cases, children are involved (New Westminster Domestic Violence Response Team, 2007). In Canada, almost 40% of all women assaulted by spouses said their children directly or indirectly witnessed the violence (Statistics Canada, 2001). Estimates of the number of children who live in homes where there is domestic violence who actually witness the violence range from 60% to 80% (Bala & Edwards, 1999; Jaffe et al, 1990). Much of this violence witnessed by children was severe: in half of these cases, the woman feared for her life (Johnson, 2006). Abuse often begins or escalates during pregnancy (Stewart & Cecutti, 1993), with significant impact on the health of both mother and child (Campbell, 2001; Kingston & Penhale, 1995). Psychological and behavioural impact on children of witnessing violence against their mother are well documented (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Bala & Edwards, 1999; Cunningham & Baker, 2007; Geffner, 2000; Jaffe et al, 2004; Johnson, 2006; National Center for Children Exposed to Violence, 2006; Peled et al, 1995; Wolfe et al, 1986).

For more information on the magnitude of the problem of domestic violence, see Appendix 1.

1.3 Women's fears of proceeding

Traditionally, the overriding objective of the criminal justice system has been the detection and sanction of perpetrators of crime. Reforms that address empowerment and support of victims have challenged the legal system's culture, processes and priorities. The ambiguity of goals can cause difficulty at the operational level for police and the Crown (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003, p.39).

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A woman's reluctance or fear of proceeding through the criminal justice system is often referred to as the most persistent challenge in cases involving domestic violence. Such preoccupation with victim "cooperation" not only prevents effective strategizing about "victimless prosecutions" and their appropriateness in any given case, but, more importantly, detracts from the basic need to try to ensure the safety of a victim. Inability or unwillingness to cooperate with a criminal prosecution should be recognized as a potential safety concern (Erez & Belknap, 1998; Randall, 2004, 2006; Tutty, Ursel, & Douglas, in press).

Women who are fearful of proceeding are referred to as "reluctant", "uncooperative" or "hostile" witnesses. Labeling of victims of domestic violence as "reluctant" or "uncooperative" is often offered as the reason for low conviction rates, "dropping" cases, or lack of adherence to pro-charge or pro-prosecution policies. In one study, even in a specialized domestic violence court designed to minimize the need for victim cooperation, cases where victims were perceived to be cooperative were seven times more likely to be prosecuted than cases where a victim was not perceived to be cooperative (Dawson & Dinovitzer, 2001).

Abused women's fears of proceeding are based on the realities of their life circumstances and should be understood in that context. Their fears may be exacerbated by extreme social isolation and a lack of information about available options, particularly for women who are newcomers to Canada or who do not have fluency in English. Women's fears may also be rational reactions to the realities of their lives and what they do know about the operation of the criminal justice system. (Light, 2001, 2002; Marsland et al, 2001; Russell, 2001; Tutty, George, Nixon, & Gill, in press; Tutty, Ursel, & Douglas, in press; Wood, 1998).

Misunderstanding women's reluctance to proceed as hostility to the justice process may result in serious negative consequences for women's safety (Randall, 2004, 2006; Tutty, Ursel, & Douglas, in press). For many women, their fear or reluctance to proceed through the justice system is closely linked to their decision to remain in their relationship.⁶ As part of their struggle to exist within a violent relationship, women engage in many different survival strategies, including, for example, recanting their reports of violence, asking for charges to be dropped, or refusing to appear as a witness.

Research on the experience of domestic violence victims indicates that they find the system overwhelming and that rational decision-making without consistent and comprehensive support, is extremely difficult (Konarski, 2002). Women who are reluctant to proceed need *more* rather than *less* support from justice system interveners (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Wood, 1998). The creation of domestic violence units involving a partnership between police and community organizations serving victims, provide one strategy for addressing women's reluctance to proceed. These partnerships

⁶ Women may choose to stay in a violent relationship for a wide range of reasons, including: love of their spouse despite the violence, a desire to keep the family together, a belief that children need their father, a belief that they will not be able to support themselves or their children on their own, a value system that places a commitment to a marriage as paramount and enduring "no matter what", or lack of information about other available options.

offer intensive emotional support in conjunction with the police investigation (Pratt, 1999). Services in an immigrant woman's own language or that meet her particular needs as an immigrant provide another example (Light, 2007 a & b). (See 2.3 *Specialized victim support and 2.7. Use of specialized expertise*).

Re-defining success

While the possibility of sanctions inherent in prosecution is an important goal in a justice system process, it is necessary to re-define and broaden the traditional notions of what constitutes successful justice system intervention in cases of domestic violence. Where charges are laid despite a lack of victim cooperation, the case should not be regarded as a "waste" of court time and resources if it does not proceed. Critical measures of an effective response might include managing victim safety, communicating to the abuser that the justice system will take this matter seriously, and encouraging a victim to turn to the criminal justice system for help the next time she is assaulted (Russell, 2002; Tutty, George, Nixon, & Gill, in press; Tutty, Ursel, & Douglas, in press).

(See the goals for the New Westminster Domestic Violence Response Team in Porteous, 2007 and in Appendix 2. See also Wood, 1998, for a thorough discussion of this issue.)

Diversion from the court process or staying charges is often a simplistic response to the challenge of meeting the woman's need for safety within the ongoing dynamics of an abusive relationship. Deciding against prosecution because it may "re-victimize a woman" may be invoking a rationale against proceeding that simply places her in greater danger. These responses do not address the underlying dangers women may continue to confront and may reinforce their lack of confidence in the justice system.

Women's fear takes many forms

Women's fear can take many forms. Fears that may impede women's progress through the justice system may include:

- Fear of escalating violence resulting from their partner's anger if they leave or if charges are laid, which is based on realistic assessments of possible consequences⁷
- Fear that the response of the justice system will not meet their needs
- Fear of poverty or of not being able to "make it" on their own⁸

⁷ There is ample research evidence that a woman who leaves her abusive partner is at increased risk of violence (See 2.5 *Coordination* for discussion of these risks and the need for links between the criminal and family law systems).

⁸ Material needs (including the need for employment, social assistance, and affordable housing) and economic dependency are especially acute for some groups, including poor, immigrant, and Aboriginal women, and women with disabilities (Coker, 2000; Light, 2007a & b; Statistics Canada, 2004, June 23 & August 18). For some immigrant women, fear of the economic consequences of leaving an abusive husband may relate to sponsorship issues and deportation (Light, 2007a & b; Randall, 2006).

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- Fear of personal shame from being publicly exposed as a victim of domestic violence
- Fear of shaming or loss of support from family or cultural community, often as a result of family or community pressures, especially for immigrants or Aboriginal women
- Fear of authorities, including police, the court process, and child protection authorities, especially for marginalized groups
- Fears about the process and consequences of prosecution
- Fear of breaking up the family and of the impact on their children of “losing” their father.

(Light, 2007a & b; Russell, 2001; Wood, 1998)

The fear that permeates the lives of victims of domestic violence and the trauma inherent in the experience of repeated or extreme violence, may result in women suffering from Post-Traumatic Stress Disorder (PTSD)⁹. PTSD can significantly complicate women’s responses to the violence and to justice system involvement, and may act as an impediment to women proceeding through the justice system (Haskell, 2003; McGruder et al, 2000).

⁹The Diagnostic and Statistical Manual of Mental Disorders says, “...PTSD...follows a traumatic event which causes intense fear and/or helplessness in an individual. Typically the symptoms develop shortly after the event, but may take years (American Psychiatric Association, 1995). The Canadian Department of National Defence describes PTSD as “...a psychological injury caused by the reaction of the brain to a very severe psychological stress such as feeling one's life is threatened” (Canadian Department of National Defence, 2004).

2. Critical Components of an Effective Response

In any community, the critical components of a framework for an effective, specialized response to domestic violence must include effective, inclusive approaches to:

1. **Managing risk and victim safety** – including a comprehensive, coordinated approach to risk and safety assessment and victim safety planning
2. **Offender accountability** – including appropriate and consistent sentencing, consistent enforcement of protection orders, and accessible treatment for abusers
3. **Specialized victim support** – including comprehensive, proactive, and timely support with outreach and access for marginalized groups
4. **Information-sharing** – including consistent, timely information-sharing between agencies and with the victim, with particular emphasis on high-risk cases
5. **Coordination** – including coordination and collaboration at all levels among all relevant sectors, senior level leadership, and resources to adequately support a coordinated approach
6. **Domestic violence policy** – including adherence to a comprehensive justice system policy that applies to all justice system components and requires a consistent and informed approach to charging, prosecution, and offender accountability
7. **Use of specialized expertise** – including specialized approaches such as dedicated justice system personnel and dedicated court time, adequately funded specialized training, and if they are considered an option, a carefully considered and principled approach to domestic violence courts
8. **Monitoring and evaluation** – including monitoring and evaluation as an integral part of all the foregoing critical components and a systematic, comprehensive approach to collection, analysis, and publication of statistics across all justice system components

All of these critical components are integrally related to one another. While each component constitutes a key element of an effective specialized response, it is important that they also be considered together, as part of a comprehensive response to domestic violence.

2.1 Managing risk and victim safety¹⁰

- On November 22, 1995, Sharon Velisek suffered life threatening, permanent injury when she was shot by Larry Scott. In the previous two months, since she had ended a relationship with him, she had provided police with a detailed written description of each of 16 separate incidents of vandalism, nuisance phone calls, and stalking by Scott. No effective police intervention occurred because there was no recognition of the escalating risk she faced with each incident. (Wood, 1998.)¹¹
- On May 20, 2003, with a restraining order preventing Bryon Heron from contacting Sherry Heron clipped to the front of Ms Heron's chart in Mission Memorial Hospital, Bryon Heron stood in Ms Heron's hospital room and fatally shot her and her mother. The case did not have the "K" file designation which would have allowed it to be monitored as high risk. In spite of the RCMP's knowledge that Mr. Heron had five registered weapons and a history of violence towards his wife, there is no evidence in the Coroner's report that a risk assessment was conducted. (Office of the Chief Coroner of BC, 2004).
- On November 8, 2004, Sarah Bethell was tied up, sexually assaulted, and forced to call her children's schools to give permission to release her children to her estranged husband, William Bethell. In the ensuing police pursuit, Mr. Bethell crashed his vehicle, injuring his child and several others and killing himself and a child in the oncoming car. At the time, Bethell had a charge recommendation pending for criminal harassment and uttering threats. He had appeared in court and been released with conditions including no contact with Sarah Bethell. There is no evidence in the Coroner's report that comprehensive risk assessment and safety planning had been conducted.¹² (Office of the Chief Coroner of BC, 2006).
- On September 4, 2007, Peter Hyun Joon Lee killed his wife, Sunny Yong Sun Park, his small son, his wife's parents, and himself. Lee had been previously arrested and released by consent, in regard to driving offences which caused serious injury to his wife and had apparently breached his conditions of release. (Transcript of proceedings before the Provincial Court of British Columbia, August 29th, 2007.) A coroner's inquest is pending.

¹⁰ The terms "risk assessment," "lethality assessment," "danger assessment," and "threat assessment" are generally used interchangeably in the literature. Risk assessment is normally done by police or Corrections. Safety assessment and planning is part of the role of victim support workers. There is clearly overlap between these forms of risk management. A coordinated approach and information-sharing among all responders is therefore required. (See also 2.4 *Information-sharing*.)

¹¹ Recommendation 7 in the Josiah Wood report to the RCMP following this case and the Ghakal murders in Vernon reads: "Develop a risk assessment tool to help police & victim assistance workers evaluate persons who may be either predisposed to violence or have the potential to harm others." (Wood, 1998)

¹² Recommendation 2 in the coroner's report recommends "That police, government and Community-based Victim Services agencies work together to develop inter-agency information sharing protocols and co-ordinated risk management strategies in violence in relationships cases" (Office of the Chief Coroner of BC, 2006).

Managing safety for victims involves a systematic, coordinated effort to identify and manage all risk factors that may be present in a woman's life. This includes all measures that she has taken or might take to keep herself and her children safe, with re-assessment throughout the justice process, including at sentencing, and when factors emerge that may change her risk level and require additional actions. It is important that a comprehensive, objective, and consistent risk assessment tool be used in order to mitigate risks throughout the process (Konarski, 2002). Risk assessment and safety planning must also take account of the particular circumstances of marginalized women, including, for example, Aboriginal women, immigrant and refugee women, women with disabilities, and rural and isolated women. It is particularly important that lack of English language skills is acknowledged and addressed as a risk factor. Many official reports have recommended the development and use of risk assessment strategies (see footnotes 11 and 12).

It is essential that only validated risk assessment tools are used. In BC, an "assessment" or "management" model rather than an "actuarial" or "prediction" model has been adopted. A management model focuses on identifying multiple risk sources and reducing risk through a comprehensive range of interventions rather than trying to predict the likelihood of violence based on statistical measures (Grann & Wedin, 2002; Hilton & Harris, 2005; Kropp & Hart, 2000; Kropp, Hart, & Belfrage, last updated 2007; Williams & Houghton, 2004). Some jurisdictions are utilizing both an assessment and an actuarial approach, which merits further exploration (Kropp, 2007).

Risk assessment and risk management are increasingly recognized as essential components of an effective response to domestic violence. Valuable as these tools are as a response to domestic violence, while research continues to be conducted on their impact and effectiveness, caution must be exercised in relying on these tools to accurately predict offender behaviour (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003).

The coding or flagging of domestic violence cases as "spousal" files and electronic tracking of risk factors is also a key aspect of risk management. The police data collection system in BC (PRIME) does not currently allow for a straightforward method for coding and tracking spousal cases. (See also *3.8 Monitoring and Evaluation* for a more detailed discussion of data base and electronic tracking issues.)

Risk assessment and management are also currently limited by a number of other important factors:

- Lack of consistent, integrated policy and operational objectives for all justice personnel on the use of risk assessment tools
- Lack of consistent policy and protocols guiding information-sharing within and between sectors
- Lack of trained staff and lack of staff time to conduct thorough risk assessments

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- Lack of funding to evaluate the effectiveness of these tools in improving women's safety
- Systemic factors that affect victim safety, such as: lack of timely justice system responses, which increases risk for women by decreasing offender accountability and weakening women's resolve to proceed; lack of interpreters and services available in immigrant women's own language, including police services; lack of resources and training to deal with victims or offenders with mental health issues; and lack of system accountability, including, for example, lack of adherence to the *Violence against Women in Relationships Policy* and lack of enforcement of breaches of protection orders

The use of validated risk assessment tools must be supported by addressing these limitations. Upon implementation, it is particularly crucial that emphasis be placed on training for all justice system personnel and on a well coordinated approach that includes consistent information-sharing with respect to both process and outcome (See also 2.4 *Information Sharing*.) The *Aid to Safety Assessment and Planning* or ASAP (BC Institute Against Family Violence, 2006), incorporating the offender risk factors from *Brief Spousal Assault Form for Evaluating Risk* (B-SAFER) (Kropp et al, last updated 2007),¹³ provides a coordinated approach to risk assessment and victim safety planning in BC¹⁴.

(See also 2.2 *Offender accountability* for a discussion of ways in which risk to victims may be reduced.)

2.2 Offender Accountability

- In November 1995, B.M. was brutally beaten by her partner R.K. He had a lengthy criminal record, including manslaughter. However, he convinced B.M. not to testify, except on his behalf at sentence, so he received only a 21-day jail term. R.K. was on probation for the assault when, in April 1996, they met in a parking lot in Prince George to discuss sale of their property. R.K. became agitated, used his vehicle to try to block B.M. from leaving, recklessly followed her until she attracted the attention of friends, and then drove away. B.M. contacted police and the assigned constable ascertained that R.K. had a history of violence, but advised B.M. to seek an *Family Relations Act* restraining order, as he concluded no charges could be recommended. Some weeks later R.K. attended B.M.'s cabin where he shot and wounded her 12 year old daughter and killed her friend, Hazel White.

¹³ B-SAFER has been recommended by the BC Chiefs of Police as the risk assessment tool for police in BC as part of the Police Release Guidelines, and will be included as part of risk assessment training for police. The ASAP safety assessment tool has been developed for use by Victim services, Transition House workers, and Stopping the Violence counsellors. The purpose of the ASAP is to reduce the risk of domestic violence by supporting workers to assist the woman to assess her safety and develop a safety plan.

¹⁴ The Alberta Relationship Threat Assessment Management Initiative (ARTAMI) provides another example of a coordinated, multi-disciplinary approach to risk management (Province of Alberta, undated).

He then set the house on fire and killed himself. (*B.M. v. British Columbia (Attorney General)*, [2004] B.C.J. No. 1506.) This case is an unfortunate example of ineffective measures to hold an offender accountable, in part in deference to the victim's view of dangerousness. More stringent probation conditions, coupled with a thorough investigation of alleged breaches, may have assisted in controlling R.K.'s behaviour.

- The recent Lee case in Oak Bay may prove to be a tragic example of the consequences of failing to hold an offender accountable by imposing escalating consequences for criminal behaviour which puts a victim at risk, such as the breach of bail conditions. (See *2.1 Managing risk and victim safety* for more details about this case.) (Transcript of proceedings before the Provincial Court of British Columbia, August 29th, 2007.)

Offender accountability is a fundamental rationale underlying the criminal justice process and is a societal demand, not an obligation owed exclusively to the victim of the offender's criminal behaviour. Mr. Justice Lambert, in the unanimous BC Court of Appeal decision in *Stanley v. The Queen*, [1986] B.C.J. 695, emphasizes this point:

I want to say particularly in this case that society has a deep interest in this kind of conduct. It is not a private matter between parties to the relationship nor a matter that goes away if there is forgiveness within a relationship. This kind of conduct endangers and imperils society. In addition the guardians of the social interest, the people involved in social work and the police who are called out and into these situations, must have the protection of the law and the understanding that these offences will not be ignored by society or that forgiveness by one spouse will not put an end to the offence. Other people are at risk. Children are at risk and the neighbours are at risk. The nature of the assaults can escalate to the point where they are completely unbearable. If these sentences were made concurrent there would be, in effect, no sentence at all for the second assault, an assault that was committed at a time when the applicant was on probation and on judicial release...(page 2-3).

Measures to enhance offender accountability in domestic violence cases include: rigorous arrest policies; thorough police investigations; rigorous charging policies; appropriate and consistent sanctions, including an escalating element to sentencing where appropriate; effective community supervision; effective enforcement of protection orders; and treatment options geared specifically to domestic violence offenders. All of the above are based on an analysis of risk to a particular victim and the need to protect society. (See also *2.6. Domestic Violence Policy*).

In cases of domestic violence, offender accountability involves a consistently enforced pro-arrest policy. Studies show that arrest reduces the incidence of re-offending for some men and has a significant impact on women's safety (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Berk & Newton, 1985; Berk, 1993; United States Department of Justice, 2001; Russell, 2001; Steinman, 1991). Although the impact of arrest *alone* on recidivism has provided mixed results (Berk et al, 1992; Garner & Maxwell, 2000; Gelles, 1993; Stefanakis, 1998) and can obscure class and race issues (Haaken, 2002), arrest has been shown to

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be an important component of a coordinated response that also includes victim and offender services. It is important to note that, increasingly, research indicates that a coordinated community response that includes the criminal justice system as well as services for offenders and victims, is the most effective approach to reducing recidivism (Gondolf, 2004; Stover, 2005).

Studies suggest that arrest has a significant impact on women's safety for a number of reasons. It provides police and Crown with the ability to impose or request release conditions on the offender, thus enhancing immediate protection of the victim. It also provides the victim with time to consider her options; access to support services; access to information about abuse and available services; and time to make alternative living arrangements (Jaffe et al, 1993; Stark, 1996; Tolman, 1996).

Offender accountability in domestic violence cases is further enhanced when there is a thorough police investigation which is dedicated to supporting a rigorous charging approach. There is also some evidence that a "pro-charge"¹⁵ approach to domestic violence is related to reduced re-offending (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Landau, 1998; Nova Scotia Department of Justice, 2001a; London Family Court Clinic, Inc., 1991). Without a charge, the criminal justice system's ability to hold offenders accountable is limited to a recognizance under s. 810 of the *Criminal Code*, the effectiveness of which can be dependent on scarce and over-extended supervisory resources and which does little to reinforce the criminal nature of domestic violence. There is some evidence that specialized police domestic violence units decrease the rate of stays of proceedings and increase conviction rates (Pratt, 1999). (See also 2.7. *Use of specialized expertise*).

Timely disposition can enhance accountability and reduce risks to victim safety, although flexibility in approach is required to address those situations where risk may be increased by a speedy disposition.¹⁶ Timeliness of the criminal justice response may allow the process to take advantage of victims' and offenders' openness to take corrective steps in the immediate aftermath of an assault and to avoid potential coercion on the part of offenders who may try to convince victims to withdraw from the process (Russell, 2002; Boland, 2002). There is also some evidence that the longer it takes for a case to come to trial the greater the likelihood of re-assault (Marsland et al, 2001). Delays in processing cases of domestic violence may have serious implications for offender accountability and women's safety. (See also below under *Offender accountability through assaultive men's treatment* and 2.7. *Use of specialized expertise*.)

¹⁵ "Pro-charge is the term used in the Ad Hoc Federal-Provincial-Territorial Report and is used here for ease of reference.

¹⁶ An informed, flexible approach is essential; in some cases, for example, complainants may need time to safely extricate themselves from their relationship and court testimony cannot be contemplated prior to a safe departure.

Appropriate and consistent sanctions

Recognizing the principles of sentencing, including the overall need for the sentence to be proportional to the offence, sentences should always emphasize the aggravating feature of “abusing the offender’s spouse or common-law partner” (s. 718.2(a) (ii) of the *Criminal Code*) and, where appropriate, incorporate an escalating element. The fundamental principles of sentencing - including denunciation, deterrence, separation from society where necessary, rehabilitation, and promotion of a sense of responsibility in offenders – should be applied particularly consistently in domestic violence cases. Offenders who are violent toward their spouses, unlike other offenders, may have a unique sense of entitlement to commit these acts. Therefore, a critical form of offender accountability lies in the imposition of deterrent sentences that adequately reflect society’s denunciation of the crime of domestic violence.

In certain cases, offender accountability may be achieved through the imposition of community-based sanctions. These should be coupled with conditions that include a requirement that the offender successfully complete a program of assaultive men’s treatment, the progress of which is effectively monitored through community supervision facilities. The goal of deterrence can be combined with the goal of rehabilitation, within a context of a coordinated community response.

Research underscores that when the system fails to meet victims’ needs, victims tend to opt out of the criminal justice system, typically by not cooperating. This suggests that sentencing must consider the specific victim’s needs in the context of a comprehensive risk assessment (Konarski, 2002). While all of a victim’s needs should be taken into account, her need for safety must always be the paramount concern of the criminal justice system.

It is also important to emphasize that incarceration as an isolated strategy does not have the intended effect for most offenders. Rather, it needs to be considered within a broader context of responses, including rigorous arrest and charging policies and services for both offenders and victims. This is especially the case for offenders who are socially marginalized (Garner & Maxwell, 2000; Haaken, 2002; Stefanakis, 1998). Socially marginalized offenders, such as Aboriginal offenders or offenders who are poor, are over-represented in the prison system. The need for the sentencing court to consider unique systemic or background factors which may have played a part in bringing an aboriginal offender before court is articulated in the case of *R. v. Gladue*, [1999] 1 S.C.R. 688 . The *Gladue* decision also identifies the need to address the serious problem of overrepresentation of aboriginal people in prison and encourages sentencing judges to have recourse to a restorative approach to sentencing in appropriate cases.

It is important for Crown counsel to have ready access to sentencing cases regarding domestic violence and to consider the appropriateness of making submissions on the magnitude of the problem in Canada as outlined in the pre-2003 *Violence Against Women in Relationships Policy*. As stated by Mr. Justice Wood in *R. v. Julian*, [1990] BCJ No. 2775 (BCCA):

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One would have to be both ill-informed and insensitive to the realities of life not to recognize the fact women have for too long been left vulnerable to and unprotected against this sort of domestic violence. Whatever may be the complicated psychological and or sociological explanations which underlie this peculiar and devastating form of violent crime, the ultimate and, if I may say so, uncomplicated object of any court before whom such tragedies are brought, must be to protect the victims as best that can be done within the parameters of our statutory jurisdiction. (p. 3)

While offenders may attempt to mitigate their sentence by indicating a willingness to undertake counselling, the BC Court of Appeal has upheld sentences that reflect the need for deterrence. For example, in *R. v. Julian*, [1990] B.C.J. No. 2775 (BCCA) Justice Wood upheld a three-year sentence for assault causing bodily harm, not only to isolate the offender from the victim, but to have a deterrent effect on others in order to enhance safety for women in general. These views were affirmed in *R. v. Goodings*, [1991] B.C.J. No. 2126 (BCCA), citing *R. v. Julian* and *Stanley v. The Queen*. In *R. v. Wallace*, [1992] B.C.J. No. 1786 (BCCA), Madame Justice Proudfoot also cited these cases in articulating the importance of general deterrence in sentencing in domestic violence cases.

R. v. Kaiser, [2001] B.C.J. No. 1798 (BCCA) also illustrates the Court of Appeal's emphasis on denunciation and deterrence in cases involving assaults that are part of a pattern of spousal abuse. The principles of denunciation and deterrence were seen as paramount by the court in *Kaiser* even in the face of probative evidence that indicated that the offender was rehabilitating himself.

These cases illustrate the court's willingness, in some circumstances, to sentence and to uphold sentences that embody the principle of deterrence even at the expense of rehabilitation. However, it is also important that this approach take into account the special circumstances and needs of marginalized groups such as immigrant, Aboriginal, and poor offenders.

Without appropriate sanctions, consistently enforced, there can be no offender accountability. There is evidence that the staying of charges, for example, and the resulting lack of sanctions, is positively related to re-assault (Marsland et al, 2001; Plecas et al, 2000). In cases involving s. 810 recognizances or probation orders, accountability can be achieved only where offender compliance is well monitored and non-compliance is met with swift arrest and charge.

The impact of dispositions and sentences on offender behaviour and recidivism should be monitored both routinely and by way of special studies (see also 2.8. *Monitoring and evaluation.*)

Effective enforcement of protection orders

In domestic violence cases, a high degree of risk is associated with breaches of court-ordered protective conditions such as no-contact. It is important that any reported breach be dealt with as a high-risk situation for victims and others associated with the victim, with an immediate enforcement response required because of the significant risk of escalating violence. A lack of escalating consequences to address escalating violence may exacerbate this risk. In addition, a protection order should always be managed within the context of a safety plan, especially given the inconsistency of enforcement of these orders and the resulting threats to women's safety.

Russell (2002) pointed out that lack of enforcement of protection orders was, for many women, a crucial justice system failure. Vigorous enforcement of protection orders has been shown to enhance victim safety (EKOS, 2000; Randall, 2006; Russell, 2001, 2002; Varcoe et al, 2000). Research indicates that a coordinated approach to enforcement results in more consistent offender accountability and greater safety (CCWS, 2002; 2006; Russell, 2002). (See also 2.5. *Coordination*).

In 2003, Criminal Justice Branch introduced changes to its *Spouse Assault Policy*. Instead of vigorous prosecution of these cases, greater use of peace bonds is encouraged. Aside from the problems of protection order enforcement, the relationship between peace bond use and stays of proceedings raises questions about victim safety that have not been adequately analyzed.

Enforcement of *Family Relations Act* (FRA) restraining orders, Supreme Court Orders and protective intervention orders under the *Child, Family and Community Service Act* (CFCSA), is also problematic. The Crown counsel policy on FRA s.128 prosecutions was deleted in 2003. The current Crown Counsel *Spouse Assault Policy* offers only the very general statement that "In some cases it may be appropriate to proceed with a charge of breaching a court order under the *Family Relations Act*." Furthermore, the current Criminal Justice Branch policy does not address Crown's role in enforcing CFCSA protective intervention orders¹⁷. Criminal Justice Branch should develop specific criteria to clarify Crown counsel's role in prosecuting breaches of FRA and CFCSA orders, which would serve to assist all those involved in women's safety. A working relationship among family lawyers, Crown, and police to facilitate the enforcement of FRA orders, Supreme Court Orders and Protective Intervention Orders, needs to be established through strong community coordination initiatives. Consistent use of the Protection Order Registry¹⁸ (POR) for these orders is also important. If these orders are not being actively enforced because of continuing questions about the legal authority of police to respond to breaches, Crown counsel reluctance to proceed, or because they are not registered on POR, then such orders may result in greater rather

¹⁷ Criminal Justice Branch has only a generic policy on charge assessment-social regulatory offences (CHA 1.2 Sept.15, 2004)

¹⁸ The POR is a database accessed by police and other justice system personnel to obtain information regarding registered protection orders, including all orders (civil and criminal) containing a condition that affords safety and security to a specific (named) person.

than less risk for women because of a false sense of security and failure to take steps to otherwise protect themselves (Community Coordination for Women's Safety, 2002, 2003).

A *Protection Order Enforcement Matrix* (POEM) was developed by the Ministry of Public Safety and Solicitor General in the late 1990s to improve understanding and consistency in policy and practice. While the POEM is intended primarily for police, it could be useful for all personnel in the criminal and civil justice systems, child protection, and youth services who have responsibility for managing any stage of the protection order process. This matrix is currently in need of updating.

Judicial Review Hearings, which are held after conviction and the imposition of a probation order, have been used effectively in the US to reinforce the Court's role in preventing recidivism, protecting complainants, and ensuring adherence to conditions of sentence. Compliance Courts in BC, which address breaches of bail and probation, may similarly prove helpful in monitoring offenders and reducing risk to victims of domestic violence.

In order to monitor and assess the use, enforcement, and impact of criminal and civil protection orders in these cases, more data are needed on the number and type of protection orders issued and their efficacy in preventing further violence. (See also 2.8 *Monitoring and evaluation*).

Offender accountability through assaultive men's treatment

Treatment for assaultive men can be an important form of offender accountability and a key element of an effective, coordinated response to domestic violence. To maximize opportunities for rehabilitation, appropriate treatment must also be available to incarcerated offenders.

There is considerable debate about the merits of assaultive men's treatment, as well as conditions that should be met in order to maximize the potential for treatment to be effective (Augusta-Scott & Dankwort, 2002; Austin & Dankwort, 1999a & b; Dobash, et al, 2000; Edelson, 1995; Edelson & Syers 1991; Gendreau & Andrews, 1990; Gondolf, 2001, 2004; Stefanakis, 2000; Tutty, Ursel, & Douglas, in press). Men's treatment is included as an aspect of offender accountability because it is important that abusive men – including abusive men from marginalized populations - be given the tools and the opportunity to change their behaviour. Change is important not only for themselves but for the safety of their current and future partners. Assaultive men's treatment is also important because often abused women primarily want their husbands to get help (Russell, 2002).

The literature does confirm, however, that treatment for men is more likely to be effective and men more likely to be held accountable if these treatment programs are an integral part of a comprehensive, coordinated response to domestic violence (Dobash et al, 2000; Gondolf, 2001; Syers & Edelson, 1992). In order to ensure effective risk

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assessment and management, it is crucial to involve these programs in coordinated responses to domestic violence at the local level and to ensure good communication with victims, current partners of the men, the service providers who are assisting them, and probation officers.¹⁹ (Augusta-Scott & Dankwort, 2002; Austin & Dankwort, 1999a; Community Coordination for Women's Safety, 2005; Dankwort & Austin, 1995; Gondolf, 2001, 2004). (See also *2.1 Managing risk and victim safety*, *2.4 Information-sharing*, *2.5 Coordination*, and *2.7 Use of Specialized Expertise*.)

While Corrections Branch policy addresses offender accountability and Corrections has developed guidelines for the delivery of court-ordered services to assaultive men (these are currently being revised), concern continues to be expressed in the community that current services for assaultive men are inadequate, unevenly delivered, and not consistently coordinated with services for women and other community-based services (see for example, Community Coordination for Women's Safety, 2005). Ending Relationship Abuse Society of BC (ERABC), a provincial organization with a goal of educating those who are committed to the provision of high quality treatment services for assaultive men in British Columbia, has also developed guidelines (also currently under revision) for the delivery of these services. Consistent adherence to a comprehensive set of practice guidelines, addressing both ethical and quality control issues, are important to help ensure effectiveness of assaultive men's treatment in terms of both men's rehabilitation and women's safety. Ongoing communication and collaboration between Corrections Branch and the community is also key to ensuring a high quality of services to assaultive men and maximum safety for women.

Timeliness is also an important aspect of effective use of assaultive men's treatment (Dankwort & Austin, 1995; Gondolf, 2001, 2004; Hoffart & Clarke, 2004; Tutty, Ursel, & Douglas, in press). Hoffart & Clarke, (2004) state: "...research indicates that treatment is more effective if offenders begin the process as quickly as possible after the offence." This finding is consistent with other research indicating that timeliness of criminal justice responses is important to maximize women's safety (Marsland, 2001; Plecas, 2000; Russell, 2002, Boland, 2002). (See also *2.7 Use of specialized expertise*). However, while timeliness is important in the provision of services for assaultive men, risk assessment and victim safety are fundamental considerations. It is important that criminal justice system personnel dealing with domestic violence cases take into account the possibility for manipulation that is inherent in some men's speedy entry into treatment after criminal justice system intervention.

Well trained and supervised service providers are crucial to the provision of high quality treatment for assaultive men. In addition to training of treatment providers, it is essential that training regarding men's treatment, including the strengths and weaknesses of different approaches, the importance of women's safety and of accountability strategies, and the need for a coordinated approach, be provided for all justice system personnel who respond to domestic violence.

¹⁹ Calgary provides an example of an integrated approach to assaultive men's treatment. The Men's Crisis Service is a project of the Calgary Women's Emergency Shelter (Dankwort & Austin, 1995).

Some of the pressing issues that have been identified in BC and elsewhere in terms of the funding and delivery of assaultive men's treatment include: lack of adequate availability of "treatment" as opposed to "educational" approaches to assaultive men's counselling; in the absence of treatment designed specifically for assaultive men, increasing use of services such as anger management groups or alcohol and drug services that may not address the power dynamics of these crimes; lack of culturally-specific and Aboriginal-specific treatment; lack of treatment for "voluntary" men or "low risk" offenders; and lack of consistent and effective enforcement strategies to help ensure that assaultive men successfully complete their course of treatment (Community Coordination for Women's Safety, 2005; Hoffart & Clarke, 2004).

2.3 Specialized victim support

- Although police had been aware of the Bethell family for over a year and William Bethell had been released on conditions that included no contact with his estranged wife, no proactive referral had been made to specialized Community-based Victim Services. (See 2.1 *Managing risk and victim safety* for more details about this case.) (Office of the Chief Coroner of BC, 2006.)²⁰
- Josiah Wood in his report to the RCMP following the Ghakal murders in Vernon clearly demonstrated domestic violence victims' need for specialized support from Community-based Victim Services. Specialized, community-based support services, he pointed out, "are designed exclusively to serve the needs of women who are victims of relationship violence and are generally staffed by counsellors who have the training and experience necessary to meet those unique needs."²¹ For that reason, a referral to CBVS²² rather than to PBVS²³ is more likely to provide a woman with the real support and encouragement she needs if she is to cooperate fully [with the criminal justice system]." (Wood, 1998)

Effective, comprehensive, specialized victim support is a key component of an effective justice response to domestic violence (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Hornick et al, 2005; Light, 2007a & b; Randall, 2006; Russell, 2002; Tutty, in preparation; Tutty, George, Nixon, & Gill, in press; Tutty, Ursel, & Douglas, in press). The positive effect of such

²⁰ Recommendation 1 of the inquest into these deaths states "That the RCMP should ensure that their members are following existing Violence in Relationships/Violence against Women in Relationships Policy, which specifies that where they exist, Community-based Victim Services should normally be the primary service provider in violence in relationship cases." Recommendation 5 states "That the Community-based Victim Services be provided additional funding which could assist in raising their profile in the community." (Office of the Chief Coroner of BC, 2006.)

²¹ Community-based victim service workers are trained to provide emotional support as well as other kinds of support and assistance to victims.

²² Community-based Victim Services

²³ Police-based Victim services

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support on women's willingness to testify and their effectiveness as a witness has been well documented (Dawson & Dinovitzer, 2001; Justice Institute of BC, 2005; Pratt, 1999; Russell, 2002; Tutty, Ursel, & Douglas, in press). The importance of addressing needs of children who have witnessed the violence and supporting parenting skills to reduce the impact of the violence on children cannot be over-estimated (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Bala & Edwards, 1999; Cunningham & Baker, 2007; Geffner, 2000; Jaffe et al, 2004; National Center for Children Exposed to Violence, 2006; Peled et al, 1995). Such support services also serve a preventative function by helping to support and strengthen women's ability to resist further abuse, as well as by helping to break the inter-generational cycle of violence (Light, 2007a & b; National Center for Children Exposed to Violence, 2006; Randall, 2006; Russell, 2002).

Significant progress has been made in BC over the past 30 years in providing specialized services for victims of domestic violence, including a province-wide network of nearly 400 victim service programs, transition houses, Stopping the Violence Counselling Programs, Children Who Witness Abuse Programs, outreach and multicultural outreach workers, and a small number of specialized units in police forces and hospitals in large urban areas. Such support has gone some way towards addressing the needs of women who are suffering from the impact of violence, including not only physical injuries but also the often invisible effects of post-traumatic stress (Haskell, 2003; McGruder-Johnson et al, 2000), depression, and other psychological injuries.

The extreme social isolation of many abused women, particularly women who are already marginalized²⁴, acts as a serious barrier to accessing help. Many abused women are deliberately isolated from family and friends by their husbands. Many are also isolated by shame, fear of censure by their family or cultural community, language issues, or lack of knowledge about services. Geographic isolation presents an additional barrier for many women. Lack of access to services often means lack of information about the nature and dynamics of domestic violence, which leads many women to stay in violent relationships in the false hope that the offender's behaviour will change without help. Breaking through this isolation in order to offer women a lifeline in the form of emotional support, information, and practical assistance presents serious challenges for service providers and the justice system. Particularly vulnerable groups, such as Aboriginal women and immigrant women, require specific strategies to meet their particular needs.

The Ministry of Public Safety and Solicitor General has recently conducted community-based research to identify innovative ideas for supporting victims in rural and isolated Aboriginal communities. This research identified a need for long-term solutions to address past and ongoing victimization and for increasing the capacity of Aboriginal communities to provide specialized services to meet the needs of their own

²⁴ Marginalized refers to those groups who are particularly discriminated against and who are therefore especially vulnerable to the impacts of domestic violence and may have particular challenges in accessing services. These include: Aboriginal women; immigrant and refugee women, women with disabilities; lesbians and gays; poor women; geographically isolated women; women in the sex trade; and women who live on the street. (See also Randall, 2006).

community. (Ministry of Public Safety and Solicitor General, Victim Services and Crime Prevention Division, 2007a).

A recent BC report, *Empowerment of Immigrant and Refugee Women Who Are Victims of Violence in Their Intimate Relationships* (Light, 2007b), identified the unique needs of abused immigrant and refugee women as well as ways to meet those needs. A comprehensive service delivery model that provides a broad range of services, including advocacy, and that proactively ensures that victims obtain other required services, was suggested as a particularly effective way to deliver services to immigrant and refugee women who are victims of domestic violence. This type of service delivery could be provided by any key service agency with a broad mandate to provide comprehensive, proactive services to victims. There is every reason to believe that Canadian-born women – especially particularly vulnerable women - would also be well served by such a service delivery model. In general, effective victim support includes:

- Timely, proactive referrals, especially to Community-based Victim Services where they exist, rather than waiting for women to ask for services. Many victims may be too traumatized or unaware of available resources to know what to request, or may not be fully aware of the seriousness of their situation. (Goundry, 1999; Light, 2007b; Nova Scotia Department of Justice & Department of Community Services, 2004; Russell, 2002.) The need for effective referrals extends to women who are involved in the family justice system as well as those involved in the criminal justice system. Effective referral includes proactively informing women about specialized services, offering to refer women, helping them understand the value of the referral, proactively contacting the agency on their behalf, offering to accompany them or facilitate their access to the service, and following up to make sure they access the service. (See also *2.4 Information-sharing*)
- Outreach and access for marginalized groups, who may be unaware of or unable to access services for a variety of reasons, including lack of information about services, lack of physical access, language issues, or geographic or social isolation.
- Comprehensive models of service where key agencies provide or facilitate wide-ranging services, particularly, but not only, for marginalized women who are unaware of or unable to access a range of services. (Hester & Westmarland, 2005; Light, 2007b; Pratt, 1999; Tutty, George, Nixon, & Gill, in press).

2.4 Information-sharing

Recent inquests, case reviews and analyses in BC have identified the need for consistent, proactive information-sharing between sectors in domestic violence cases:

- The Bethell inquest includes a recommendation that government and Community-based Victim Services work together to develop inter-agency information-sharing protocols (Office of the Chief Coroner of BC, 2006).

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(See 2.1 *Managing risk and victim safety* for details about this case and the Coroner's recommendation.)

- The *BC Children and Youth Review* (Hughes, 2006), involving the death of Sherry Charlie, highlights the lack of information-sharing across ministries. In this case, Sherry died from abuse by her uncle, previously convicted of spouse assault. Among other information-sharing failures, information about the uncle's history of domestic violence was not shared with child protection authorities who placed Sherry in his care.
- In the Martina Seymour case, Ms Seymour survived a near-fatal shooting by her ex-partner. Police did not disclose to Ms Seymour crucial information about her partner's past violence with another partner, citing privacy restrictions. Federal Privacy Commissioner Jennifer Stoddart commented to the media that the *Privacy Act* has broad exemptions allowing release of information in high-risk cases like Seymour's, but that there is a need for better understanding within the criminal justice system of privacy laws and the public interest. (Harper, 2004)
- In the recent Lee case in Oak Bay, a Coroner's Inquest is pending. However, media reports have raised questions about whether information received by police about alleged child abuse (of Lee's young son Christian) was communicated to the Ministry of Children and Family Development. (Smyth, September 6, 2007). Also of concern is whether this information was provided to Crown counsel and Lee's bail supervisor to help inform the risk assessment process. (See 2.1 *Managing risk and victim safety* for details about this case.)

Consistent sharing of vital information is a key safety issue for victims of domestic violence. Sharing information about critical risk factors, such as an offender's criminal record, protective conditions, or release from custody is a key aspect of safety planning for victims and for service providers who may also be at risk (see 2.1 *Managing risk and victim safety*). This information should be shared by justice personnel, both with the victim and among appropriate agencies, in a consistent and timely manner, and in a form that is accessible to the particular victim. Accessibility of information requires that information be provided in the language of the victim and in formats that are accessible to all victims. Proactive referral of victims to victim services, especially community-based services where they exist, is also a key information-sharing issue that is central to victim safety (see 2.3 *Specialized victim support* for a definition of proactive referral).

In BC, a number of documents provide direction and guidance on the provision of information to victims. The *Victims of Crime Act* (VOCA) provides a legal framework to guide the provision of information to victims of crime. Current victim service program contracts articulate the role of victim services in providing information to victims. These contractual agreements have recently been reinforced by *Referral Policy for Victims of Power-based Crimes: Family Violence, Sexual Assault, and Criminal Harassment*, issued by Policing and Community Safety Branch of the Ministry of Public Safety and Solicitor General (2006). The *Aid to Safety Assessment and Planning*

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Guidelines (ASAP) also provides guidance for information-sharing necessary for risk and safety management (see *2.1 Managing risk and victim safety*). The Protection Order Registry (POR)²⁵ provides a valuable tool for information-sharing regarding protective conditions that are in place. The POR can play a particularly useful role in linking criminal and civil (*Family Relations Act* and child protection) processes to help ensure safety of women and their children. (See also *2.5 Coordination* for a discussion of the importance of information-sharing between family justice and criminal justice processes.)

The need for a provincial information-sharing protocol for domestic violence cases has been identified. This could help address the additional risks posed to women as a result of limited information-sharing between sectors.²⁶

Community-based victim service programs play a critical role in victim safety assessment and planning. Current interpretations of federal and provincial privacy legislation can restrict release of certain information to Community-based Victim Services, including the victim's name and contact information for referral purposes and information on risk factors for safety planning purposes (Royal Canadian Mounted Police, 1996; Community Coordination for Women's Safety, 2006c). This issue affects referrals from both police and Crown counsel. (See Appendix 3 for further analysis of federal and provincial privacy legislation.) In addition, victim services are hampered by an inability to directly access the public portion of JUSTIN²⁷, which would facilitate their safety planning work with victims.

There is a need to address and clarify the relationship between legitimate privacy safeguards, on the one hand, and the potential need to release certain information quickly in domestic violence cases, on the other. Given mixed or inconsistent understanding of existing privacy requirements and the risk factors unique to domestic violence cases, a provincial level response is called for. An action plan developed by the BC Ministry of Public Safety and Solicitor General Victim Services and Crime Prevention Division in response to the Bethell Inquest recommendations (Office of the Chief Coroner of BC, 2006) may be valuable as a basis for this provincial response. The Ministry action plan includes a commitment to work with justice partners, including Community-based and Police-based Victim Services, to develop information-sharing protocols for domestic violence victims under exemptions provided by federal and provincial privacy laws.

(For more information on information-sharing and privacy issues, see Appendix 3.)

²⁵ The POR is a database accessed by police and other justice system personnel to obtain information regarding registered protection orders, including all orders (civil and criminal) containing a condition that affords safety and security to a specific (named) person.

²⁶ Nova Scotia has developed a provincial *High Risk Case Coordination Protocol Framework* for domestic violence cases that could be used as a model in BC. (Nova Scotia Department of Justice & Department of Community Services, 2004). High risk is defined in Nova Scotia by assessing lethality using J. Campbell's Danger Assessment checklist (Campbell, 2003).

²⁷ JUSTIN is the database used by Crown counsel, Corrections, and the criminal courts. Information available through JUSTIN includes convictions or pending charges in BC going back to approximately 2000. Access to this information is available at most courthouses through the JUSTIN terminal.

2.5 Coordination

The central importance of coordination in domestic violence cases has been specifically emphasized in a number of coroner's and other reports on deaths resulting from or linked to domestic violence, including:

- *Judgement of Inquiry into the Death of Tammy Lynn Miller* (Office of the Chief Coroner of BC, 2002)²⁸
- *Inquest into the death of Bryon Bruce Heron (deaths of Sherry Heron and Anna Adams)* (Office of the Chief Coroner of BC, 2004). (See 2.1 *Managing risk and victim safety* for details about this case.)
- *Verdict at Coroner's Inquest: Findings and Recommendations as a Result of the Inquest into the Death of Seth Thornett and William Bethell* (Office of the Chief Coroner of BC, 2006). (See 2.1 *Managing risk and victim safety* for details about this case.)
- *BC Children and Youth Review* (Hughes, 2006) in response to the death of Sherry Charlie. (See 2.4 *Information-sharing* for details about this case.)

Lack of coordination,²⁹ from the local level to senior levels of government, has negative repercussions for women's safety, offender accountability, policy and program accountability, and system costs. Every major report and much of the research on violence against women and children over the past 25 years has confirmed the crucial importance of coordination of responses (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Boland, 2002; British Columbia Task Force on Family Violence, 1992; Gondolf, 2001; Hughes, 2006; Jaffe & Burris, 1984; Light, 2007a & b; Pratt, 1999; Russell, 2002; Smith, 2004; Wood, 1998). There is mounting evidence that a coordinated community response to domestic violence that includes the criminal justice system as well as appropriate and accessible services for both victims and offenders has the largest impact in reducing re-offending (Gondolf, 2004; Stover, 2005).

²⁸ Tammy Lynn Miller died as a result of skull fractures and massive brain injury after a beating by her estranged husband. Lethal levels of prescription drugs were found in her body. In spite of a history of contact with police as a result of domestic violence and a history of suicide attempts, there is no mention in the *Judgement of Inquiry* of any referral to victim support services.

²⁹ Coordination in the context of violence against women means all sectors - within the justice system and between the justice and related health, child protection, social service, and education systems, and including groups serving a range of marginalized groups - must work together at local and provincial levels regarding responses to victims and offenders. This includes timely information-sharing, proactive referrals and follow-up, joint decision-making and problem-solving, and case management. It is particularly important that policy development and revision be undertaken collaboratively across justice system sectors. Coordination is often directed by policy, protocols, and service contracts, and may be supported by multi-disciplinary committees at the local and provincial level. Currently, the provincial Community Coordination for Women's Safety (CCWS) program of the BC Association of Specialized Victim Assistance and Counselling Programs is the only program specifically funded to coordinate initiatives related to violence against women. No local programs receive such funding.

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The Ad Hoc Federal-Provincial-Territorial Working Group called the “need for comprehensive and co-ordinated strategies to address...spousal abuse” the “key lesson learned” in its entire three-year review process.

Within each jurisdiction, a comprehensive, co-ordinated strategy is needed to address the problem of domestic violence and the factors that contribute to it. Such co-ordination needs to occur across policy sectors (social, justice, education and health) and all levels within each jurisdiction: at the provincial level (to establish a policy framework); at the local community level (to co-ordinate services and to identify needs, gaps and solutions); and at the individual level (to provide effective case management and conferencing mechanisms). The essential ingredients of an effective strategy addressing domestic violence within each jurisdiction include resources, a focal point of leadership and co-ordination, senior-level commitment and support to undertake these initiatives, and an accountability framework based on commitment to a long-range vision (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003, p. 83).

However, in spite of this wide recognition of the key role played by coordination in an effective response to domestic violence, only limited government support has been provided specifically for coordination in BC. Funding for local violence against women coordinating committees was withdrawn in 2002, as was senior level commitment to development and coordination of cross-system justice policy. Policies directing a coordinated justice response to violence against women and children have been weakened or discontinued. Senior level Violence Against Women and Children committees of the Ministries of Attorney General and Public Safety and Solicitor General were disbanded in 2002.

Closely related to lack of coordination is lack of government leadership. While the Ministry of Community Services currently funds the Community Coordination for Women’s Safety (CCWS) Program, there is no lead ministry at the provincial level and no government coordinating/advisory body to ensure provincial leadership, policy coordination, or coordination of services at a local level. One component of CCWS is to bring together senior representatives from various sectors including police, relevant ministries, and community-based agencies on its Working Group to identify and negotiate solutions to systemic issues. While the Ministry is to be commended for this support for coordination, there is still no formal link between senior levels of government and this coordination work.

The challenge of developing and sustaining a coordinated approach to domestic violence is widely acknowledged (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Nova Scotia Department of Justice, 2001b; Pratt, 1999).

The challenge to jurisdictions in adopting models of co-ordination is to create an effective model and vest it with sufficient authority and support to ensure that large and unwieldy systems co-ordinate their responses. Jurisdictions should be under no illusion that co-ordination and partnership are easy. They are time

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consuming and different philosophical frameworks and departmental priorities augment the challenges. Most difficult, however, is the challenge of ensuring a sustainable response to spousal abuse in the absence of an overall co-ordinated structure or model (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003, p. 39).

One of the models under consideration in BC to enhance coordination of service delivery in family law cases is the Family Justice Services Centre³⁰. This Centre is described in the Family Justice Reform Working Group's report to the Justice Review Task Force as the front door of the family justice system - the coordination point for local services, legal information and advice, and assessments and referrals. This model is currently being piloted in Nanaimo, BC.

The Centre may be an important point of entry into the justice system for women who have experienced domestic violence. For this reason it is crucial that appropriate links be made between services provided in the Centre and anti-violence services available in the community.

There are many positive aspects to the Nanaimo Family Justice Services Centre, such as public access to computers with assistance, access to the Law Line, legal aid screening, and a pro-bono lawyer. In terms of building a seamless coordinated response to domestic violence, however, there are some concerns with this model. For example, assessment for domestic violence is based on self-disclosure with no staff access to the Criminal Justice/Corrections/Courts data collection system (JUSTIN) or the Protection Order Registry (POR). Significantly, there are no anti-violence professionals involved directly with the Centre and the community resources list does not include Community-based Victim Services. (For further discussion related to family violence and family law reform see BC Association of Specialized Victim Assistance and Counselling Programs and its Community Coordination for Women's Safety Program, 2007 and West Coast Women's Legal Education and Action Fund, 2007.)

Much research outlining the impact of the various models implemented in Canada also confirms that the justice system cannot tackle domestic violence in isolation. It must work closely with the health care, child protection, and education systems, the community-based anti-violence sector,³¹ and other social service systems to address the complexity of the problem of domestic violence. (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Light, 2007a & b; Randall, 2006; Russell, 2002.)

Research has repeatedly shown that women who are in the process of leaving a relationship or entering a new relationship are at particularly high risk and that a relatively high percentage of divorcing couples have experienced violence (Anderson, 2003; BC Institute Against Family Violence, 2006; Campbell, 1995; Campbell et al,

³⁰ These centres are sometimes referred to as Family Justice Information Hubs.

³¹ The community-based anti-violence sector includes both provincial organizations and front-line service providers who work within different service sectors, including the justice system, the health care system, and the social service system.

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2001, 2003; Community Coordination for Women's Safety, 2006d; Daly & Wilson, 1998; Daly et al, 1997; Department of Justice, Canada, undated; Hart, 1995, 1998; LaViolette & Barnett, 2000; Neilson, 2002, 2004; Statistics Canada, 2005, July 14; Sullivan et al, 1992; Toews et al, 2003; Wilson & Daly, 1993; Zutter, 1999). Therefore, it is vital that information be shared between the criminal justice and family justice systems where domestic violence is involved or suspected, and that this issue be addressed by Crown submissions on bail and probation. (Community Coordination for Women's Safety, 2006d; Neilson, 2007; Randall, 2006). (See also 2.4. *Information-sharing*). Both New Westminster and Vancouver domestic violence units recommend that strategies be developed to coordinate criminal and family cases involving the same parties (Porteous, 2007).

The Federal-Provincial-Territorial Report, emphasizes that a coordinated response requires:

- **Senior level leadership**, with representation across all affected departments and the authority to develop and implement multi-disciplinary policy
- **Resources** to effectively implement a coordinated approach
- **Monitoring and accountability** strategies to track and publicly report on justice system effectiveness
- **Partnerships** between system-based and community-based service providers
- **Strategies to support partnerships** and relationship-building at all levels, including support for local multi-disciplinary committees
- **Support for individual case-management** at the local level, including protocols to guide information-exchange, service provision, and coordinated roles and responsibilities

The focus of the justice system's response to domestic violence, including police, victim services, Crown counsel, corrections, and courts, must be on cooperative problem-solving.

The benefits of coordination committees are well documented (Ad Hoc Federal-Provincial-Territorial Working Group, 2003; Eley, 2005; Gill et al, 1997; Jaffe & Burris, 1984; Russell, 2002). These include:

- To break down barriers and preconceptions about the roles and responsibilities of other participants and promote understanding of their interests and constraints
- To build relationships among participants, based on familiarity and shared tasks
- To assume shared ownership of initiatives, based on shared tasks and problem-solving and reinforce the integral nature of the shared goals and responsibilities
- To build and maintain commitment to shared initiatives, particularly in the face of daily work pressures
- To sort out policy and practice issues as they arise

- To problem solve without delays, or to quickly assign problems to appropriate decision-making levels

2.6 Domestic violence policy

Lack of adherence to the Ministry of Attorney General and Ministry of Public Safety and Solicitor General *Violence Against Women in Relationships (VAWIR) Policy* has been specifically identified in a number of inquiries and coroner's inquests into deaths resulting from domestic violence in BC over the past decade. These include:

- The coroner's inquest into the deaths of Seth Thornett and William Bethell (Office of the Chief Coroner of BC, 2006). (See 2.1 *Managing risk and victim safety* for details about this case.)
- The coroner's inquest into the death of Sherry Heron (Office of the Chief Coroner of BC, 2004). (See 2.1 *Managing risk and victim safety* for details about this case.)
- Judgement of inquiry into the death of Tammy Lynn Miller (Office of the Chief Coroner of BC, 2002). (See 2.5 *Coordination* for details about this case.)
- The Josiah Wood report to the RCMP following the Ghakal/Chahal deaths and the Sharon Velisek case in Vernon (Wood, 1998). (See 2.1 *Managing risk and victim safety* for details about the Velisek case and 2.3 *Specialized victim support* for information about the lack of appropriate referral in the Ghakal case.)

Background

BC introduced its provincial *Wife Assault Policy* in 1984, encouraging a rigorous approach³² to domestic violence. In 1993, the policy was substantially amended and renamed the *Violence Against Women in Relationships (VAWIR) Policy*, as part of an over-arching Ministry of Attorney General policy on *Violence Against Women and Children*, in which the public interest in the prosecution of these offences was strongly emphasized.

³² BC's VAWIR Policy is a pro-arrest policy. The policy limits police discretion regarding arrest in these cases. If legal grounds exist to arrest, then police are instructed to arrest. Crown discretion regarding charging is maintained, although Crown are encouraged to charge wherever the charging standard is met. Direction Crown's use of discretion has occurred in relation to impaired driving cases, soliciting, and other offences where societal demands require strong measures. Yet the prevalence of domestic violence has failed to consistently elicit similarly strong intervention by the Criminal Justice Branch.

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In 2003 Criminal Justice Branch created its own operational policy, and removed the VAWIR Policy from the *Crown Counsel Policy Manual*, signaling the Branch's withdrawal from a rigorous charging approach to domestic violence³³. This action was also perceived as a lack of commitment to a coordinated justice system response to domestic violence.

Shortly after the BC Crown counsel policy change in 2003, Mr. Justice Donald of the British Columbia Court of Appeal, dissenting on the issue of police liability in *B.M. v. British Columbia (Attorney General)*, [2004] B.C.J. No. 1506, commented on the progressive nature of the Ministry of Attorney General VAWIR Policy. He stated:

The particular want of care in this case occurred in spite of an emphatic policy promulgated by the Ministry of the Attorney General for British Columbia and adopted by the RCMP requiring an assertive and timely police response to domestic violence. The policy reflects a modern understanding of abuse in the home and particularly the complex phenomenon known as the battered wife syndrome. It makes domestic violence a public issue rather than a private matter where previously the police were reluctant to intrude. The policy acknowledges the need to take a new approach. Studies have shown that police intervention is effective in reducing domestic violence, although complete elimination is impossible.

Further, he quotes extensively from the policy section on the Dynamics of Violence Against Women in Relationships and in particular:

*When police comply with the victim's wishes and do not recommend charges, or when Crown Counsel refuse to approve charges because the victim is a reluctant witness, the abuser is reinforced in his belief that his behaviour is acceptable, and more importantly, the false message that is repeatedly conveyed to the victim, that no help is available, is fortified by the inaction. Accordingly, it is important that criminal justice system personnel recognize the power imbalance and the dynamics which operate to prevent a woman from taking steps to prevent abuse. A rigorous approach to arrest, charge and prosecution, as promoted by this policy, is necessary to help eliminate violence within relationships (*B.M. v. British Columbia (Attorney General)* at page 21).*

Implicit in Mr. Justice Donald's remarks is the acceptance that these types of cases require a unique effort and response to try to eradicate this type of violence within society. While this might be said to reflect the views of a single judge, the comments are consistent with that Court's frequently expressed denunciation of violence against women as memorialized in its unanimous judgments on sentencing (see *R. v. Goodings* (BCCA); *R. v. Julian* (BCCA); *Stanley v. The Queen* BCCA); *R. v. Wallace* (BCCA). (See also 2.2 Offender Accountability).

³³ Criminal Justice Branch Policy is now referred to in the Ministry's VAWIR Policy by directing the reader to Crown Counsel Policy *SPO 1 - Spouse Assault Policy*, which is part of the *Crown Counsel Policy Manual*.

Need for a rigorous, coordinated charging policy

The first heading of the current Crown Counsel *Spouse Assault Policy* (May 1, 2003) is *Charge Assessment and Alternatives to Prosecution*. Without mention of the potentially repetitive or dangerous nature of these types of offences, the initial paragraphs of the current Crown policy almost immediately turns the prosecutor's mind to an assessment of cases where there is "low risk" of future violence. Crown counsel is directed that they may consider alternative measures at any stage of the proceeding, or, when there is a decision not to proceed with charges or to stay charges, to consider applying for a s. 810 recognizance. Unlike offences that occur between strangers, domestic violence involves victims and offenders who are familiar with each other and who may be in an ongoing relationship. As victims may, therefore, be at continual risk, the section on *Protection of Victims* should be located at the beginning of the *Spousal Assault Policy*, rather than placing the initial emphasis on offences that are "not of a serious nature".

The determination of risk in these cases can be very complex. The degree of risk may be difficult to determine in a telephone or brief face-to-face interview and may be especially challenging for Crown counsel to assess accurately, particularly before the charges are laid and particularly when Crown contact with victims may be limited to a brief meeting shortly before a court appearance. In light of recent research in the area (Haskell, 2007), the re-evaluation of a policy dependant on an early Crown counsel assessment of "risk" and/or "seriousness" may be in order.

Framing the Crown policy in such a way that the initial emphasis is on "low risk" cases somewhat oversimplifies the complexity involved in assessing risk in spouse assault cases. It implies that a significant percentage of cases are low risk when empirical evidence suggests otherwise. Further, it is important to point out that an approach that directs Crown counsel to consider pre-charge alternative measures is inconsistent with the approach taken in almost all other provinces and territories, where rigorous charging policies are in effect. (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003).

In 2005, Criminal Justice Branch revised its *Charge Assessment Guidelines*. In those guidelines, Crown is provided with some guidance consistent with section 718.2(a)(ii) of the *Criminal Code* in that it is indicated to be "generally in the public interest to proceed with a prosecution where the following factors exist or are alleged:...(e) the victim was a vulnerable person, including children, elders, spouses and common law partners (see policies ABD 1, CHI 1, ELD 1, AND SPO 1)".

Although the Crown counsel *Spouse Assault Policy* is cross-referenced in the *Charge Assessment Guidelines* (November 18, 2005), there is no explicit reference to such a charging approach in the *Spouse Assault Policy*. Recognition of this crucial aspect of the 2005 charging policy relies solely on the diligence of Crown counsel to make the connection. Specific reference in the Crown counsel *Spouse Assault Policy* to the relevant section of the *Charge Assessment Guidelines* would also go some way to allaying concerns that arose in response to the 2003 Criminal Justice Branch policy

changes. In addition, the development of Crown counsel practice bulletins linked to the *Spouse Assault Policy* may be of assistance to Crown counsel, the police, and others involved in a coordinated response to domestic violence.³⁴

The *Case Preparation* section of the VAWIR Policy relating to Crown counsel was oriented toward protecting, informing, and supporting the victim. Crucial aspects of that section of the policy have not found their way into the new Crown counsel *Spouse Assault Policy*, nor into any training or practice bulletins that may assist Crown with these challenging cases.

Anecdotal information suggests that the 2003 changes to Crown counsel policy and its removal from the overall Ministry VAWIR Policy have had an effect on police practice that has persisted despite the 2005 changes to Crown counsel *Charge Assessment Guidelines*. The police section of the VAWIR Policy provides that: “A proactive charge policy is based on the assumption that police will conduct a complete investigation in every case, including those cases that do not immediately appear likely to proceed.” This provision implicitly ties the requirement for a complete investigation to a rigorous charging policy. With what appeared to be a move away from the rigorous charging policy by Crown counsel, the incentive for police to arrest where it was in the public interest and to conduct a complete investigation was reduced. In addition, while police policy requires police to recommend charges even if no injury occurs and regardless of victims’ wishes, Crown counsel policy now provides explicitly for alternative measures in such cases. This contradiction between the two policies undermines the effectiveness of the overall policy framework which is premised on the notion of a consistent approach across the different sectors.

It is critical that police, Corrections and other criminal justice system personnel be made aware of Criminal Justice Branch’s renewed commitment in 2005 to approve charges in cases of spousal abuse because it is “generally in the public interest”. The continuing impact on police practice of the 2003 changes to Crown counsel policy, in spite of the 2005 changes, should be addressed through improved communication and coordinated training efforts.

The importance of a proactive police approach and a strong charging policy in domestic violence cases is addressed by Mr. Justice Lambert in *Stanley v. The Queen*, [1986] B.C.J. 695 (BCCA) in dismissing an appeal of a concurrent sentence for two consecutive assaults on the offender’s spouse:

There must be support for the social interest in preventing those kinds of assault and in the interests of the guardians of the peace in feeling that when they investigate this kind of matter the whole issue will not be ignored by the courts. (Stanley v. The Queen at page p. 3.)

³⁴ It is recognized that currently Criminal Justice Branch practice bulletins are generally not shared outside the Branch. However, in the interests of enhanced cooperation, those practice bulletins could be usefully shared with others who are involved in a coordinated response to domestic violence.

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Research indicates that pro-arrest, pro-charge policies, as part of a coordinated response that includes services to offenders and victims, have improved justice system effectiveness in response to domestic violence (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Burris & Jaffe, 1983; Jaffe et al, 1986; Jaffe et al, 1993; Landau, 1998; Pacey, 1999; Province of Nova Scotia, Department of Justice, 2001; Russell, 2001, 2002; Sabourin, 1996; United States Department of Justice, 2001) and that such policies have been successful in:

- increasing the number of arrests and recommendations for charges
- increasing the consistency and frequency of charges laid
- promoting rigorous prosecution
- reducing case attrition

(Landau, 1998).

When combined with other elements such as coordinated justice system response³⁵, pro-arrest/pro-charge policies have also been found to produce the best results in terms of victim safety and reduction in recidivism (Russell, 2001). Current research also indicates that, in general, victims support pro-charge/pro-arrest policies. (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Landau, 1998; Marsland et al, 2001; Plecas et al, 2000; Russell, 2001, 2002; Province of Nova Scotia, Department of Justice, 2001). In 2003, the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spouse Abuse Policies and Legislation recommended that pro-charge policies be retained across Canada.

Addressing dual arrest and charge recommendation

Where the facts of a case initially suggest charges against both parties, a “primary aggressor” screening model is an important tool to assess who should be charged (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Alberta Justice, 2005). It is crucial that such a screening tool take account of the power and control dynamics inherent in any situation of domestic violence, including patterns of abuse, victim vulnerability, social and cultural context, psychological as well as physical impact on the victim, and issues of fear, self-defence, and which party is capable of causing the greatest physical harm. (Neilson, 2004; Royal Canadian Mounted Police, 2005)

While RCMP “E” Division *Violence in Relationships Policy* includes a primary aggressor analysis, the provincial VAWIR policy does not, leaving municipal police without such a province-wide policy. Furthermore, while RCMP “E” Division has a primary aggressor policy, it is important that monitoring and evaluation strategies be in

³⁵ While the *Introduction* to the VAWIR Policy refers to “the ministries’ commitment to a multi-agency, coordinated effort, including cooperation with community agencies” the policy contains no directives to individual components of the justice system to work in close cooperation with other components or participate in coordination mechanisms at the local level. (See also *2.5 Coordination*.)

place to ensure adherence. Anecdotal information indicates that RCMP members may not always be aware of the RCMP's primary aggressor policy provisions and/or that these policy provisions may not always be followed. Province-wide statistics indicate marked variation across police jurisdictions in terms of the number of spouse assault incidents where both spouses are named as the accused (Ministry of Public Safety and Solicitor General, Police Services Division, 2008) (See also 2.8. *Monitoring and evaluation.*)

Facilitating policy adherence

Comprehensive monitoring and evaluation strategies are essential for both effective implementation of policy and assessment of its impact, including impact on recidivism and victim safety. These have been lacking with respect to the provincial VAWIR policy from its inception. Monitoring and evaluation of the impact of the Criminal Justice Branch amendments to the VAWIR policy are particularly critical given the significant changes embodied by these amendments. In order to ensure public confidence in the justice system's handling of domestic violence cases, the results of such monitoring and evaluation strategies must be publicly available on a routine basis. (See also 2.8. *Monitoring and evaluation.*)

Designation of domestic violence cases as "spousal" or "K"³⁶ files is a key element, not only of the assignment of these cases as high priority, but of an overall monitoring and evaluation strategy. "K" files are police files that relate to domestic violence, whether or not an offence of assault is involved. According to the *Violence Against Women in Relationships Policy*, any incident where the offence has occurred because of the intimate relationship between the victim and the accused, regardless of the offence, must be coded as a "K" file. It is the nature of the relationship between the victim and accused that distinguishes these cases. While a definition of "K" files must refer to both genders in order to statistically capture men as well as women victims, it is essential that any policy, guidelines, or training regarding "K" file designation refer to an analysis of the nature and dynamics of domestic violence and to primary aggressor policy provisions.

Without systematic, system-wide designation of domestic violence cases as "K" files, based on a common definition, routine monitoring and evaluation of justice system handling of these cases is impossible. (See 2.8 *Monitoring and evaluation*). There is evidence, however, indicating that such designation is not occurring consistently (Light & Ruebsaat, in press.)

A number of other strategies may help ensure policy adherence, including training and information bulletins to draw the attention of personnel to particular issues. Police Services Branch has used training guides and information bulletins on domestic violence to some effect. Recent examples include:

³⁶ The VAWIR policy refers to the designation of spousal files as "K" files. See policy provision 17 under Police: D. Investigation/Charge and provision 35 under Police: G. Monitoring.

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- *Information Bulletin for Police: Violence Against Women in Relationships* (Ministry of Attorney General, Police Services Division, 1999a) focusing on dynamics of violence and *Criminal Code* authority to arrest in these cases
- *Police Release on a Promise to Appear with an Undertaking in Violence Against Women in Relationships Cases* (Ministry of Public Safety and Solicitor General, Policing and Community Safety Branch, February, 2005)
- *Referral Policy for Victims of Power-based Crimes: Family Violence, Sexual Assault, and Criminal Harassment* (Ministry of Public Safety and Solicitor General, Policing and Community Safety Branch, 2007).

A training bulletin on police release was also distributed to police (Ministry of Public Safety and Solicitor General, Policing and Community Safety Branch, March, 2005).

2.7 Use of specialized expertise

- In the report of the coroner's inquest into the death of Sherry Heron, six out of eight recommendations directed to the RCMP focused on training and supervision of field recruits handling domestic violence cases. These were in response to the fact that this case was not dealt with according to RCMP or Ministry policy and was not designated as a high priority or high risk case and that the constable handling the case had not received special RCMP training in domestic violence. (Office of the Chief Coroner of BC, 2004.) (See 2.1 *Managing risk and victim safety* for details about this case.)
- Although Tammy Lynn Miller's estranged husband had been released with no-contact conditions after an arrest for threatening her, police did not follow up with Ms Miller regarding safety issues. It appeared that Ms Miller and her mother under-estimated the danger that Ms Miller was in - a fact alluded to in the Judgement of Inquiry into her death - and that police did not make use of specialized expertise that may have assisted them in understanding the dangerous dynamics of domestic violence.³⁷ (See 2.5 *Coordination* for more details about this case.)

Given the current expectations placed on the criminal justice system, the financial constraints that limit the system's ability to respond to the wide range of demands, and the requirements of the increasingly recognized problem of domestic violence, there is a compelling need to develop and make effective use of specialized expertise to deal with domestic violence.

³⁷ Recommendation 2 of the Judgement of Inquiry into the Death of Tammy Lynn Miller directs that police "work with organizations and individuals with expertise and training in the dynamics of spousal violence to develop a coordinated community response...Victims often underestimate the danger they are in and offenders often minimize the seriousness of their actions. Timely, effective intervention by individuals and organizations trained in the dynamics of spousal violence is required."

There is evidence that dedicated courts and other specialized approaches to policing, prosecution, and training may have a positive effect on the processing of domestic violence cases through the justice system and on offender accountability (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Boland, 2002; Boyes, 2005; Bradley, 2002; Cavicchi, 2006; Hoffart & Clarke, 2004). However, there is also evidence that specialized domestic violence courts may not always be the optimal approach. In some situations resources may be more effectively used by adopting certain components of a specialized approach (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Cavicchi, 2006; Tutty, Ursel, & Douglas, in press). The Federal-Provincial-Territorial Working Group summarized the issue:

Experience has shown the major challenge to be allocating the resources needed to dedicate the services of criminal justice personnel to spousal abuse cases, and to provide specialized programs for victims and offenders. In some jurisdictions, this problem is compounded by low case volume and difficulties in accessing central or even regional specialized courts with programs for victims and offenders.

There is evidence that dedicated courts do improve justice system performance. However, formally dedicated or specialized courts appear not to be the only means of improving the justice system response to domestic violence. The elements of the courts' response – what makes this response effective – can be exported and implemented in other ways, such as through specialized processes... (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003, p. 48)

More research is needed with respect to the impact and relative benefits of dedicated domestic violence courts (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Boland, 2002; Boyes, 2005; Tutty, Ursel, & Douglas, in press). Whatever their benefits or limitations, by their very nature, specialized approaches such as dedicated courts primarily benefit large urban centres and generally absorb a significant amount of the limited funding available to improve the justice response to domestic violence province-wide.

It would, therefore, seem prudent under the circumstances to proceed with caution and to learn from the experiences of other jurisdictions. It would also seem prudent to focus limited resources on aspects of specialization that can provide the widest benefit to the most communities across the entire province. This strategy would utilize some components of a specialized approach that would spread the benefits of specialization across the province as a whole. This might include: specialized training for police, Crown counsel, probation, and victim services, specialized domestic violence units involving a partnership between police and community-based victim service workers in policing jurisdictions that can support such an approach; dedicated police, Crown counsel, and probation; or dedicated court time (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Tutty, in press).

Dedicated police units

Dedicated domestic violence units housed in the New Westminster and Vancouver Police Departments have proven highly successful and have met with positive responses from victims (Light, 2007b; Pratt, 1999; Russell, 2002). These specialized units are based on a coordinated model of specially trained police working in partnership with specially trained victim service workers from a community-based agency, operating out of the police station. These units have a broad mandate not only to provide intensive investigation in high risk domestic violence cases, but also to provide wide-ranging, proactive support, advocacy, and follow-up for victims. This approach is consistent with a comprehensive, broadly mandated model of victim support as a highly effective approach for supporting particularly vulnerable victims (Hester & Westmarland, 2005; Light, 2007b; Russell, 2002). The collaborative approach inherent in these units and the specialized expertise of both police and community-based victim service workers make them especially suitable to conduct and assist with risk and safety assessment and management (BC Institute Against Family Violence, 2006) as well as to work closely with dedicated domestic violence courts should this model be implemented in BC (Boland, 2002). There is research evidence that domestic violence units enhance victims' willingness to carry through with the legal process and lead to fewer stays of proceedings and more convictions (Pratt, 1999). (See also 2.2 *Offender accountability*, 2.3 *Specialized victim support*, and 2.5 *Coordination*).

The Ministry of Public Safety and Solicitor General is currently working with a number of communities to establish similar domestic violence units (DVUs) based on the community partnership model. A consistent approach to the development of these units is required. A DVU advisory team including community partners is currently developing principles to guide the establishment of any new DVUs. It is essential that these new units, like the existing DVUs in BC, are based on a partnership between police and community-based victim support agencies who have specialized expertise in providing services to women who are victims of domestic violence. Ideally, the DVU concept should also include dedicated prosecutors to work with specialized police and community-based personnel (Konarski, 2002). It is also important that these new units have a broad mandate similar to the approach taken in New Westminster and Vancouver, which has proven effective for victims (Light, 2007b). (See also Appendix 2.)

Specialized personnel/dedicated court time

The differences in demographic characteristics and the diverse specialized components in the various cities such as specialized police teams and victim support were perhaps more important than the internal court model. Court personnel such as Crown Prosecutors, defence counsel and judges are central in the court response and those that champion the importance of holding offenders accountable may have a substantial impact on outcomes whether or not the court is designated as specialized. For example, Ursel (2002) wrote of the importance of what some would term a "feminist" approach by Crown

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Prosecutors in keeping victims safer, whether they decide to testify or recant. Understanding the very real safety reasons for recanting is thought to be essential in encouraging victims to contact the police in future and may result in them deciding to testify in response to a later charge (Tutty, Ursel, & Douglas, in press).

Promising practices in terms of specialized justice system processes may include designated court days, specialized Crown counsel, and designated judges. New projects in the Bulkley Valley and New Westminster warrant further exploration (see Appendix 2). It is important that initiatives be developed in consultation with the agencies who represent the victims that the justice system is designed to serve. Such initiatives may also increase the timeliness of the justice system response. Timeliness is particularly important in domestic violence cases because of the dynamics of these cases and the ongoing nature of the relationship between victim and offender (Boland, 2002; Bracken J., 2007; Russell, 2002).

“Problem-solving courts” may also present a useful model. Judge Van de Veen provides a description of a problem-solving court (see also Goldberg, 2006 for more discussion of this model):

Problem-solving courts are characterized by a multi-disciplinary approach to complex social problems. In the case of mental illness, drug addiction and domestic violence, the justice system is not equipped to solve the underlying problems which give rise to often repeated criminal behaviour. Hence, the community treatment and service providers with the appropriate training and expertise to assist with the fundamental issues of behaviour participate as part of the court process to address the problem.

Problem-solving court processes rely upon specialized or dedicated units within the criminal justice system and the community itself. Thus, in the case of the domestic violence court process, specialized domestic violence units exist within the Police, Probation and Crown Prosecutor’s office. There is also a dedicated duty counsel to provide legal advice to the accused. Community treatment agencies similarly have dedicated staff dealing with referrals from the court. This system of designated staff within each agency allows for a higher degree of continuity and effective management of individual cases. In the domestic violence context, this specialization allows for early intervention and treatment of both victims and offenders in an effort to break the inter-generational cycle of violence so commonly seen in Criminal Courts (Van de Veen, 2006, pp. 7-8).

The positive impact on the court process of a high level of support for domestic violence victims has already been discussed (see 2.3 *Specialized victim support*). (Dawson & Dinovitzer, 2001; Justice Institute of BC, 2005; Pratt, 1999; Russell, 2002; Tutty, Ursel, & Douglas, in press).

Conduct of common assault or other summary conviction cases may appear to be simple or straightforward, but in domestic violence cases, particularly where resources are strained, there can be a failure to grasp the significance of the risk involved or to

appreciate the limited opportunity for intervention. Specialized training or use of dedicated Crown counsel may enhance understanding of the challenges and result in increased use of innovative prosecution strategies, including the use of 911 tapes, videotaped evidence (KGB statements)³⁸, and increased levels of victim support. Such strategies, in some jurisdictions, have resulted in greater victim cooperation in domestic violence cases and greater safety for victims. In a study of the Ontario K-Court in 2001, for example, it was determined that use of videotaped statements exerts a positive influence on the interaction between prosecutors and victims, resulting in the odds of victim cooperation being significantly higher (Dawson & Dinovitzer, 2001). Stays of proceedings as a result of victims “recanting” or withdrawing from the prosecution are associated with a higher incidence of re-assault (Pleacas, 2000).

It has also been found that victims who do not receive sufficient information or who are not recognized as an important party to the process may disengage or cease to cooperate in the prosecution. (Dawson & Dinovitzer, 2001; see also Erez & Belknap, 1998). Crown who are specially trained and experienced in domestic violence intervention will likely be more responsive to victim needs than those who are not. Coordinated efforts among specially trained Crown counsel, specialized police units, victim serving agencies and other justice system personnel involved in addressing domestic violence is the ideal approach to the challenges associated with the prosecution of these cases.

Criminal Justice Branch is engaged in a new priority initiative that is based on the New Westminster Domestic Violence Response Team approach. This initiative, using a specialized resource Crown counsel, recognizes the need to assist women through the process and the need to provide expertise on this issue to Crown counsel. This effort should be encouraged not only by training of system personnel and by the development of Crown practice bulletins, but by working with local victim-serving agencies, including those serving marginalized groups. The development of Crown expertise is vital; however, it is equally essential that discussions about effective strategies include the perspective of the community. A system-based approach operating in isolation from community-based organizations working with victims is simply not effective. In addition, it is important that proper monitoring and evaluation measures accompany any new initiatives (see *2.8 Monitoring and evaluation*).

To assist in the development of effective, coordinated prosecution strategies, it is of particular importance in BC that specialized personnel attend rural and isolated locations, and meet with members of Aboriginal and other marginalized communities to acquire an understanding of the unique issues confronting them. While Criminal Justice Branch leadership is critical, strategies must be developed in partnership with local communities with a view to enhanced coordination across not only geographical communities but also cultural communities.

³⁸ Research on the use of KGB statements indicates that these can be an effective prosecution tool for Crown counsel, as well as an effective strategy to help address the reluctance of some domestic violence victims to proceed with the criminal justice process (Konarski, 2002).

Specialized courts

There is some evidence that specialized courts do improve justice system performance and do result in reduced recidivism (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Boland, 2002; Boyes, 2005; Bradley, 2002; Hoffart & Clarke, 2004; Hornick et al, 2005). However, effective elements of existing domestic violence court models may be adapted and implemented in more cost-effective ways rather than adopting the entire domestic violence court model. These may include dedicated judges, prosecutors, courtrooms, or court days. (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Tutty, Ursel, & Douglas, in press).

Attempting to establish specialized courts may be impractical in remote areas or areas with low case volumes (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Cavicchi, 2006). Complementary services that are important to the success of specialized courts, including specialized victim support and assaultive men's treatment programs, are often unavailable in small communities.

Much can be learned from other jurisdictions that have established specialized courts. If a domestic violence court were to be implemented in BC, crucial elements of successful models include:

- Coordination of justice system response in policy and practice
- Methods to expedite cases
- Sensitive, informed, appropriate service provided by trained justice professionals
- Coordination with a range of other service providers
- Early access to treatment by offenders to capitalize on offender motivation to change and allow for more immediate response
- Monitoring of offender compliance with meaningful sanctions to hold offenders accountable, including successful completion of court-ordered treatment programs and escalating consequences for non-compliance
- Access to support, information, and referral by victims
- Monitoring and evaluation of systems to assess effectiveness and identify need for changes
- Shared information systems with family court
- Enforcement of court orders and immediate prosecution of breaches

(Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; Boland, 2002; Boyes, 2005; Cavicchi, 2006; Eley, 2005; Gill et al, 1997; Hester & Westmarland, 2005; Hoffart & Clarke, 2004; Hornick et al, 2005; Tutty, Ursel, & Douglas, in press).

A Downtown Community Court is currently being established in Vancouver. This initiative is a result of collaboration among the judiciary, Crown counsel, police, Victim Services and Crime Prevention Division, Court Services, defence lawyers, Community Corrections, and health and social service agencies. The Vancouver Downtown Community Court takes a problem-solving approach to crimes committed in the community, with particular emphasis on addictions and mental illness. This court will also hear cases of domestic violence. The intention is that the court will work with the community to develop solutions that respond to crime in the downtown core. It is important that this model incorporate all elements of a coordinated approach to domestic violence to deal effectively with the problem, including Community-based Victim Services (For further discussion of the problem-solving court approach, see Goldberg, 2007 and Van de Veen, 2006).

Training

The Federal-Provincial-Territorial Report (2003) and experience in BC confirms the importance of incorporating domestic violence training into professional development for police, lawyers, victim services, and corrections.³⁹ It also confirms the importance of multi-disciplinary training and coordination of sector-specific training, including community-based service providers, to ensure that the same messages are being delivered to all justice system personnel and that various justice system personnel become familiar with each other's roles and responsibilities.

Also consistent with the Federal-Provincial-Territorial Report, it is important to emphasize specialized training and professional development for police and Crown counsel on investigation and prosecution of domestic violence, including: ensuring victim safety; the importance of intensive support for women who are fearful of proceeding; the importance of comprehensive and thorough investigations, including situations where dual charging may initially appear to be an option; innovative prosecution strategies, including "victimless" prosecutions and use of KGB statements; and the value of expert witnesses (Alberta Justice, 2005; Hornick et al, 2005).

It is important to recognize the value of training partnerships that emphasize collaboration among those with expertise in domestic violence, those with expertise of the specific sector being trained, and members of marginalized groups. This collaboration is key in the development and delivery of training at both the local and the provincial levels, for both generalist and specialist personnel. This is a model that has been successfully employed for many years by the Justice Institute of BC.

Specialized training that is culturally appropriate, sensitive to the needs of a range of marginalized groups, and involves members of marginalized groups in both development and delivery is also emphasized in the Federal-Provincial-Territorial

³⁹ From the perspective of offender accountability and victim safety, it is also important that interested members of the private bar be afforded opportunities to participate in professional development initiatives addressing domestic violence. Such initiatives should also encourage participation of interested members of the judiciary, where appropriate.

Report and confirmed by research and experience in BC (Light, 2007a and b; Smith, 2006. See also Justice Institute of BC, 2003, 2005).

(For further information on specialized domestic violence responses in BC, see Appendix 2.)

2.8 Monitoring and evaluation

- The Heron case in Mission illustrates the impact on police practice and victim safety of a failure to assign these cases high priority by designating them as spousal files. (See 2.1 *Managing risk and victim safety* for details about this case.) In this case, the RCMP member's failure to flag the file as a spousal, and therefore as high risk, meant that the case was not thoroughly investigated, was not forwarded for charge, and was closed prematurely (Office of the Chief Coroner of BC, 2006). In addition to the tragic impact this failure had on this specific case, without consistent, systematic designation of these files as "spousals", monitoring of domestic violence cases for evaluation and research purposes is impossible.

Monitoring and evaluation is a key element of all the preceding Critical Components. Collection and analysis of statistics and other data regarding progress of cases through the justice system and regarding policy and program implementation and impact are an essential reporting and management tool of the criminal justice system.

It is important, therefore, that planning, budgeting, and timelines for the development and implementation of any initiatives recommended in this framework include consideration of the need for monitoring and evaluation. It is also important that routine justice system intervention include a statistical data collection and analysis component on an ongoing basis. Without ongoing statistical data collection on the progress of domestic violence cases through the justice system, thorough policy and program evaluation is not possible. While monitoring and evaluation often appear to be complex and costly components of an initiative in the short-term, the long-term costs of *not* incorporating monitoring and evaluation – in financial terms, in terms of meeting goals, and in terms of public accountability – may be much greater.

Statistical data collection that meets the needs of system accountability depends upon integrated and consistent information systems across the justice system (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003). Effective information systems, in turn, depend upon accurate and consistent use of "spousal", "K" file, or "DK85" and "DK86" (hereafter referred to in this section as "spousal"⁴⁰) codes throughout all stages of the justice system response.

⁴⁰ Domestic violence or spousal cases, for purposes of designating or flagging files, are referred to as either "K" files (for example, in the RCMP *Violence in Relationships Checklist*, in the VAWIR Policy, and by independent police

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The coding or flagging of all domestic violence cases as “spousal” files is crucial for a number of reasons, including risk management; assigning these cases high priority for police, Crown counsel, and Corrections; ensuring victims receive specialized support; monitoring justice system response to these cases; assessing the impact of policy and practice on these cases; and targeted research on domestic violence cases to further our understanding of the justice system role in the control and prevention of domestic violence (see also *2.6 Domestic violence policy*).

Currently, the police data collection system (PRIME) and the Criminal Justice/Corrections/Courts data collection system (JUSTIN) are not integrated or effectively linked, although such integration is apparently planned. In addition, “spousal” coding across the justice system is inconsistent, based on inconsistent guidelines and inconsistent definitions which are then inconsistently applied.

The VAWIR policy includes an instruction to police to “designate the RCC with a ‘K’ designation to assist Crown counsel in expediting these matters”. (Provision 17, Police Section) There is also a directive in the policy that “all ‘spouse’ assault complaints should also be coded in such a manner that case trends and dispositions are retrievable”. (Provision 35, Police Section)

The RCMP “E” Division *Violence in Relationships Policy* (Operations Manual, Ch.2 provision 7.10.3.3) requires that the letter “K” is to be included after the police file number in the Report to Crown Counsel. Further to this, the RCMP Policy Operations Manual Ch.2. provision 7.10.3.3.1 states: “The BC Ministry of Public Safety and Solicitor General has requested the ‘K’ flagging system to better identify VIR/VAWIR cases.” Finally, the RCMP “E” Division *Violence in Relationships Checklist*, appended to the RCMP *Violence in Relationships Policy*, includes a box for the member to check that the member has “indicated Violence in Relationships on C216”⁴¹ and a box for the supervisor to check to ensure that the “Police File and Report to Crown Counsel have been flagged as ‘K’ file”.

Despite references to the use of the “K” designation to identify domestic violence cases in both the RCMP and provincial VAWIR policies, this designation has not been carried over into the new PRIME data collection system currently in use by all police jurisdictions in BC. Under PRIME there is currently no electronic mechanism to modify

forces and Crown) or as “DK85” (for male offenders) and “DK86” (for female offenders) cases (a code used by Statistics Canada, and referred to by some RCMP members). To avoid confusion, the term “spousal” will be used in this section to refer to the designation or flagging of these cases. These are sometimes referred to in BC as VAWIR cases.

For purposes of the *Violence Against Women in Relationships (VAWIR) Policy*, a VAWIR, or spousal case is defined as any case of “...physical or sexual assault, or the threat of physical or sexual assault of women by men with whom they have, or have had ongoing or intimate relationships, whether or not they are legally married or living together at the time of the assault or threat.” (See under Introduction: Definition.) The policy definition goes on to say that “Other behaviour, such as intimidation, mental or emotional abuse, sexual abuse, neglect, deprivation and financial exploitation, must be recognized as part of the continuum of violence against young and elderly women alike.” The policy also states “...this policy also applies where the victim of relationship violence is male or both partners are of the same sex and where the same dynamic exists.”(Ministry of Attorney General & Ministry of Public Safety and Solicitor General, 2004).

⁴¹ C216 is the fingerprint form.

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a police file number to add the K suffix. Under the General Occurrence (GO) field in PRIME there is an ability to flag the file as “family violence” with a series of subcategories including “spousal/partner abuse assault”⁴².

The inconsistent use of terminology between the policies on the one hand, and the data management systems on the other, in terms of how to designate spousal files is potentially problematic and confusing for justice system personnel and researchers. Also, there is further inconsistency between justice agencies in how to designate these files. Criminal Justice Branch (Crown prosecutors) still use the “K” to flag these cases. There is also evidence that police use of the GO flags for domestic violence cases under PRIME is not consistent (Light & Ruebsaat, in press). While Crown appear to be using the “K” file designation in practice, their spouse assault policy does not include a directive to flag these cases as “spousals”.

Corrections report that, in general, court files come to Corrections with the “K” suffix attached from Court Services. Corrections also has policy that indicates that in cases of spousal violence where the court file number does not include a “K”, Corrections staff add the “K” and enter it accordingly in CORNET⁴³. Corrections also has a “K” file flag in CORNET that staff must acknowledge every time they enter a court order. This is to ensure that even though the court file number may not include a reference to a “K” file, Corrections staff verify whether the circumstances of the offence fit the VAWIR definition.

Data that should be collected, analyzed, and published on an ongoing basis include data from police, Criminal Justice, Court Services, and Corrections on: numbers of cases progressing through the system, including reports to police, clearance rates, charges laid, cases proceeding, alternative measures utilized, court dispositions, post-sentence compliance, and recidivism.

While Police Services Division currently collects, analyzes, and publishes police-generated data on a regular basis, other components of the criminal justice system do not. Without such cross-system statistical data collection and analysis it is impossible to monitor the impact of justice system intervention or policy and program initiatives or to identify and address problems or potential problems in a systematic way. This is particularly true when new approaches, such as policy changes, increased specialization, or innovative strategies are being introduced. (Boyes, 2005; Hester & Westmarland, 2005). Furthermore, without publication of this data and analysis, it is

⁴² The other GO subcategories under family violence in PRIME are: Child/Child Assault, Child Child Dispute, Child Abuse, Guardian/Child Assault, Elder Abuse, Guardian/Child Dispute, Guardian/Child No Offence, Other Family Assault, Sibling Assault, Other family Dispute, Other Family Other offence, Parent/Child Assault, Parent Child Dispute, Parent/Child Other Offence, Sibling Abuse, Sibling Dispute, Sibling Other Offence, Spousal/Partner Abuse, Spousal /Partner Assault, Spousal Partner Dispute, Spousal Partner Other Offence. Other Offence.

⁴³ CORNET is a web-based, integrated client management system used by BC’s Corrections Branch and the Youth Justice Division of the Ministry of Children and Family Development. It provides improved information-sharing among Corrections staff, MCFD Youth Justice staff, and other stakeholders.

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impossible to provide the public transparency and accountability necessary for public confidence in the justice system.

The effectiveness of justice system approaches, including dispositions and sentences, would be best monitored on both a routine basis and through special studies, including statistical analyses and applied research. One way of monitoring the effectiveness of sanctions on an ongoing basis is by looking at recidivism, defined as an offender's re-entry into the criminal justice system. However, special studies can go further by, for example, interviewing key players in the system, as well as victims and offenders. In a promising development, the BC Institute against Family Violence and the Justice Institute of BC are in the process of creating a Centre for the Prevention and Reduction of Violence which will be used as the focal point for applied research and the translation of research findings into policy and practice.

In the past, the Ministry of Attorney General (now Ministry of Public Safety and Solicitor General), Police Services Division, prepared special reports on violence against women cases. These included analysis of police and Crown statistics related to investigation, charging, and disposition. These reports provided valuable insight into progress of cases through the system and case attrition. (Ministry of Attorney General, Police Services Division, 1996, 1997, & 1999b). In addition, prior to this time, the Ministry's Management and Evaluation Division periodically produced key indicator reports on selected issues of interest to the criminal justice system. Both types of report were made publicly available and were valuable for purposes of transparency and public accountability, to enable criminal justice personnel to better understand and address criminal justice processes, and for research purposes.

Death reviews are another form of system accountability in that they provide a systematic review of the circumstances leading to a death, as well as recommendations as to how such a death may be prevented in the future. The British Columbia *Coroner's Act*, effective September 26, 2007, provides that the Chief Coroner may establish panels to review the facts and circumstances of deaths. Examples of death review committees exist in other Canadian provinces and in the US (See, for example, Dixon, undated; Office of the Chief Coroner, Province of Ontario, 2005).

3. Recommended Actions

This is a listing of all *Recommended Actions* in the paper. There is inter-connection among many of these recommended actions. For purposes of simplicity, cross-references are confined to those recommendations that are directly and explicitly linked.

3.1 Managing Risk and Victim Safety

- 3.1.1 *Government should develop and maintain a comprehensive, coordinated strategy to ensure that safety assessment and risk management are integrated into all interventions by criminal justice personnel and contracted victim services who address domestic violence. This should include information-sharing protocols and training.*
- 3.1.2 *Consideration should be given to incorporating a requirement into the police data collection system (PRIME) that, if an incident is a “spousal”, the police member is required to enter information about risk and safety.*
- 3.1.3 *The Ministry of Public Safety and Solicitor General should ensure that adequate funding and training is provided to those victim service programs contracted to perform safety assessment and planning, including training on all risk and safety assessment tools proposed for use in BC. Training should include a focus on the importance of risk assessment and safety planning taking account of the particular circumstances of women from marginalized populations, including language issues. Training should also include appropriate cautions about the limitations of risk assessment tools.*
- 3.1.4 *The Ministry of Public Safety and Solicitor General should monitor and evaluate the effectiveness and impact of the implementation of the ASAP guidelines on victim safety (from the perspective of victim services) and on victim services’ workload.*
- 3.1.5 *The Ministries of Attorney General and Public Safety and Solicitor General should enhance their efforts to address systemic factors that affect victim safety, including lack of timely justice system responses; lack of interpreters and services in immigrant women’s own language, including police services; lack of resources and training to deal with victims or offenders with mental health issues and lack of system accountability, including lack of adherence to the Violence Against Women in Relationships Policy (VAWIR) and lack of enforcement of protection order breaches.*

3.2 Offender Accountability

Appropriate and consistent sanctions

- 3.2.1 *Training for Crown counsel should include specialized training on sentencing issues for domestic violence offences, including: the need for sentences to address the particular nature and dynamics of domestic violence; the need for deterrence to over-ride rehabilitation in serious cases; the strengths and limitations of different approaches to treatment for assaultive men; the strengths and limitations of protective orders, including s. 810 recognizances; the importance of enforcement of orders through prosecution of breaches and bringing the offender back on the original offence; and the need for an escalating element in sentencing.*
- 3.2.2 *Consideration should be given to the development and maintenance of a sentencing casebook or database for Crown counsel, including statistical information on the magnitude of the problem of domestic violence for use in submissions where appropriate.*

Effective enforcement of protection orders

- 3.2.3 *The Ministries of Attorney General and Public Safety and Solicitor General should investigate and pilot successful models for coordinated protection order enforcement based on effective programs in some jurisdictions.*
- 3.2.4 *The Ministries of Attorney General and Public Safety and Solicitor General, in collaboration with the Ministry of Children and Family Development, should enhance training on the effective use of various types of protection orders, including their strengths and limitations. As part of this initiative, the updated 2006 Protection Order Enforcement Matrix should be completed and widely distributed in order to maximize access to clear, consistent information about this complex topic for criminal and civil justice system, child protection and youth services personnel.*
- 3.2.5 *The implementation of the Family Law Reform Package should include professional development for members of the Family Bar, and provision of resources to better enable them to coordinate with police and Crown to facilitate effective risk assessment and safety planning for clients who are seeking protection from harassment or abuse in the context of family breakdown. Education and resources should include information on the importance of enforcement clauses in any restraining order sought from the court.*

3.2.6 *Criminal Justice Branch should clarify the Crown's role in prosecuting breaches of Family Relations Act (FRA) orders, Supreme Court orders, and protective intervention orders under s. 28 of the Child, Family and Community Service Act (CFCSA). Any guidelines produced should be shared with members of the private bar and should also include reference to Crown counsel's role in liaising with members of the Family Bar if there is a family law proceeding underway where violence is involved. Such information will better enable members of the Family Bar to advise clients as to the enforceability of these orders and to coordinate with Crown counsel regarding breaches and safety issues.*

Assaultive men's treatment

3.2.7 *Appropriate, timely treatment should be accessible to all assaultive men, both on a mandatory and on a voluntary basis, including men from marginalized populations.*

3.2.8 *The Ministry of Public Safety and Solicitor General should adopt comprehensive practice guidelines for assaultive men's treatment programs developed in consultation with experts in the field, including the Ending Relationship Abuse Society of BC, as well as women-serving organizations. These guidelines should include directives that programs work in close collaboration with anti-violence and women-serving organizations in their community, to ensure that an appropriate gender analysis is maintained in the development and delivery of treatment for assaultive men and to enable victims to make informed choices about their safety. Contracts for assaultive men's treatment programs should require programs to adhere to the practice guidelines which are adopted.*

3.2.9 *The Ministry of Public Safety and Solicitor General should have in place concrete, ongoing strategies to ensure that assaultive men's treatment providers, both within the Ministry and in the community, are adequately trained and supervised, including appropriate contract requirements and accountability mechanisms.*

3.2.10 *Links should be maintained on an ongoing basis between assaultive men's treatment programs and probation services to ensure compliance with treatment conditions.*

3.2.11 *The Ministries of Public Safety and Solicitor General and Attorney General should take the lead in providing training for all justice system personnel who deal with domestic violence. This training should address the nature of appropriate and effective treatment for assaultive men, including strengths and weaknesses of different approaches, the importance of focusing on women's safety, the importance of understanding and addressing the particular needs of immigrant men, the central role of accountability strategies, and the need for a coordinated multi-disciplinary approach, should be provided for all justice system personnel who address domestic violence.*

- 3.2.12 *Evaluation measures should be established and implemented on an ongoing basis to assess effectiveness of both court-ordered and voluntary treatment for assaultive men.*
- 3.2.13 *The Ministry of Public Safety and Solicitor General should actively encourage other appropriate ministries such as the Ministry of Health and the Ministry of Children and Family Development to provide funding for assaultive men's treatment programs for voluntary, low risk, or self-referred men in order to seek to change abusive behaviour before the abuser is charged or convicted of a criminal offence. Strategic partnerships with these ministries should be explored in order to ensure a coordinated response.*

3.3 Specialized Victim Support

- 3.3.1 *Criminal justice system personnel should be provided with training that emphasizes the central role played by victim support services in contributing to successful criminal justice system interventions. Criminal Justice System Policies should also reinforce the central role of victim support services.*
- 3.3.2 *Government funding should be increased for existing Community-based Victim Services to meet current and growing service pressures, and funding should be provided for additional Community-based Victim Services in communities that currently do not have such a program. This would include lowering the current community population requirement to be eligible for a community-based victim service program.*
- 3.3.3 *Government should provide adequate funding for victim support services for marginalized groups, including funding for:*
- *Innovative approaches to breaking through the isolation and meeting the needs of abused immigrant women, Aboriginal women, women with disabilities, women living in rural and isolated communities, and other marginalized women*
 - *comprehensive models of service delivery to meet the multiplicity of needs of marginalized women*
 - *interpreter services to facilitate timely access to appropriate community-based victim support services for immigrant women and women with disabilities*
 - *increased capacity of women's own geographic, social, or cultural community to meet their own needs*
 - *enhanced public education about availability of services for domestic violence victims*
 - *enhanced prevention and intervention initiatives to address the issue of domestic violence in the long-term*

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- 3.3.4 *Government should provide enhanced ongoing training on challenging service delivery issues such as effective referral, intensive support for women who are fearful of proceeding in the criminal justice system, and meeting the needs of marginalized women.*
- 3.3.5 *Where necessary and appropriate justice system personnel should work with victim service workers to develop protocols to guide responses to challenging service delivery issues such as those named above.*

3.4 Information-sharing

- 3.4.1 *The BC Government should make it an immediate priority to develop a provincial information-sharing and/or case coordination protocol framework for domestic violence cases, including both the criminal and civil (family law/child protection) systems, with the Ministries of Attorney General and Public Safety and Solicitor General taking the lead. (See Appendix 3 for details of what should be addressed in this protocol.) These ministries should work in partnership with other concerned ministries and with provincial organizations representing police, Community- and Police-based Victim Services, and transition houses. This protocol should complement and not replace existing provincial policies such as the Violence Against Women in Relationships Policy and existing case coordination protocols at both the local and provincial levels.*
- 3.4.2 *The Ministry of Public Safety and Solicitor General should work collaboratively with provincial organizations representing the police, police-based and Community-based Victim Services, and transition houses to develop and deliver multi-disciplinary training on the provincial information-sharing protocol for their members.*
- 3.4.3 *The Ministries of Attorney General and Public Safety and Solicitor General should, on a priority basis, investigate the legal implications of having Police-based and Community-based Victim Services designated as "justice system personnel" pursuant to section 1 of the Victims of Crime Act. The Ministries should engage in immediate discussions with provincial organizations representing victim services to consider the practical and legal implications of such designation. The results of the Ministries' investigation of the legal implications of such a designation should form part of these discussions.*
- 3.4.4 *The Victims of Crime Act should be amended to specifically provide that, because of the unique dynamics of domestic violence and the likelihood of further offences, justice system personnel in these cases may disclose to Community-based and Police-based Victim Services the victim's name and contact information for the purposes of making a proactive referral and may also disclose case-related information necessary to effectively manage risk. This would allow for critical*

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information to be shared under section 33.1(1)(c) of the Freedom of Information and Protection of Privacy Act (FIPPA).

- 3.4.5 *The Ministry of Labour and Citizens' Services, in consultation with the Ministries of Attorney General and Public Safety and Solicitor General, should review FIPPA and propose amendments to enable justice system personnel to proactively share information with the victim and victim-serving agencies in domestic violence cases.*
- 3.4.6 *The Ministry of Labour and Citizens' Services, in consultation with the Ministries of Attorney General and Public Safety and Solicitor General, should work with their federal counterparts and the Federal Privacy Commissioner to review the federal Privacy Act to determine whether parallel amendments to that act are also needed to enable justice system personnel to proactively share information with the victim and victim-serving agencies in domestic violence cases.*
- 3.4.7 *The Ministry of Public Safety and Solicitor General should monitor these changes to ensure they have the desired impact on ease and consistency of information-sharing.*
- 3.4.8 *Appropriate steps should be taken to ensure that all information provided to victims is in a language in which they are fluent.*

(For more information on information-sharing and privacy issues, see Appendix 3.)

3.5 Coordination

- 3.5.1 *A senior inter-ministry coordinating body should be established, with an ongoing budget, to coordinate government initiatives to respond to domestic violence. This body should have formal links with existing community coordinating initiatives, including Community Coordination for Women's Safety, as well as with any bodies established to address the needs of Aboriginal, immigrant, or other marginalized victims of domestic violence. This senior government coordinating body should have the authority to develop policy, programs, protocols, and procedures; to undertake monitoring and evaluation activities; and to respond to concerns and take action on recommendations from other coordinating bodies. This body should also be charged with the responsibility for overseeing consideration and implementation of recommended actions in this report.*
- 3.5.2 *Domestic violence initiatives developed by the Ministries of Attorney General or Public Safety and Solicitor General should be developed in a collaborative fashion with all relevant justice system players, including community-based services.*

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- 3.5.3 *Government ministries should jointly fund local domestic violence coordinating committees or working groups, to facilitate information-sharing, coordination, accountability, and problem-solving at a local level, and direct that representatives of each of the relevant sectors should attend and participate on a regular basis, including justice, health, child protection, organizations serving marginalized groups, and other responders to women and their children who are victims of domestic violence.*
- 3.5.4 *Government ministries should jointly fund training for local coordination committees to support effective multi-disciplinary collaboration, development of multi-disciplinary protocols, and understanding about each other's roles.*
- 3.5.5 *If plans proceed to further develop Family Justice Services Centres or Family Justice Information Hubs, the Ministry of Attorney General should directly involve anti-violence professionals in the development, implementation, and ongoing operation of the Centres/Hubs in order to help address safety concerns for women who are victims of domestic violence.*
- 3.5.6 *The Family Justice Services Centres or Family Justice Information Hubs should include as part of their screening processes, comprehensive risk assessment that does not rely solely on victims' self-disclosure. The Hub model should also include referral to victim services, including Community-based Victim Services where they exist.*

3.6 Domestic Violence Policy

Need for a rigorous, coordinated charging policy

- 3.6.1 *Recognizing the serious nature of domestic violence, the pivotal role that Criminal Justice Branch plays in the justice system response to these cases, and the significant effect that weakening one aspect of the response has on all other elements of the response, the Crown Counsel Spouse Assault Policy:*
- *should be revised to emphasize the seriousness of these offences and the foremost importance of protection of victims*
 - *should include reference to the 2005 Charge Assessment Guidelines relating to the public interest*
 - *should be included in the overall VAWIR policy to communicate willingness to engage in a coordinated approach*
 - *should be augmented by practice bulletins for use by Crown counsel, to be shared with others involved in a coordinated response to domestic violence*
- 3.6.2 *Consistent with the serious nature of domestic violence, Criminal Justice and Corrections Branch policy should be amended to eliminate pre-charge alternative measures in domestic violence cases and to discourage post-charge alternative measures until research provides evidence that alternative justice*

processes offer the same or more protection for domestic violence victims as does the traditional criminal justice process and traditional sanctions.

- 3.6.3 *Consistent with evidence that uniformly supports the importance of a coordinated response to domestic violence, the VAWIR Policy, including the Crown Counsel Policy, should be amended to include a provision for each component of the justice system that it should work in coordination with the other components and should participate in local coordinating mechanisms.*

Addressing dual arrest and charge recommendation

- 3.6.4 *The police component of the provincial VAWIR Policy should be amended to incorporate a primary aggressor analysis to be used in cases where mutual aggression is alleged, with appropriate training for staff on how to apply such a policy and monitoring to ensure compliance. Provincial police statistics should be routinely reviewed and utilized in planning an appropriate strategy to address this issue, including on a jurisdiction by jurisdiction basis where required.*

Facilitating policy adherence

- 3.6.5 *The VAWIR policy should be monitored on a routine, ongoing basis and should be evaluated periodically in order to assess its impact on domestic violence cases, on recidivism, and on victims' safety.*
- 3.6.6 *Recognizing the fundamental role that "spousal" or "K" file designation plays in the management of domestic violence cases, a consistent, system-wide definition of "K" files should be developed, in consultation with Community-based Victim Services and offender services. This definition should specify that:*
- *In most cases, it is the nature of the relationship between victim and accused, and not the offence type, that will determine whether the case is a "K" file.*
 - *If the accused and the victim are, or were, in an intimate relationship (including married, common law, and dating relationships) then the "K" designation would apply.*
 - *Certain cases may still be designated as "K" files even though the intimate partner is not the primary victim, for example, in cases where the accused may direct violence at someone close to the intimate partner, such as her children, as a way of exercising power and control over her*
- 3.6.7 *The use of "K" file codes should be included in policy for Crown counsel.*

(See also Action 3.8.2.)

3.7 Use of Specialized Expertise

3.7.1 *The Ministries of Attorney General and Public Safety and Solicitor General should play a leadership role at the provincial level, including developing a coordinated policy framework and an advisory body, linked to the senior government coordinating body recommended in 3.5.1, to help ensure a consistent approach to the development of specialized justice processes in BC and to ensure adequate monitoring and evaluation of new approaches, building on the experiences of other jurisdictions. This advisory body should include key community stakeholders, including representatives of marginalized groups.*

Dedicated police units

3.7.2 *The Ministry of Public Safety and Solicitor General should work with local police departments/detachments and community-based services to develop and fund specialized domestic violence units in communities where population warrants such an approach. Such units should embody a coordinated police-community approach and a broad service delivery mandate. Such units should also be guided by an advisory body that includes community agencies and is formally linked to any existing VAWIR coordinating committee.*

3.7.3 *The Ministries of Attorney General and Public Safety and Solicitor General should support the development of guidelines and protocols for police, Crown counsel, probation, and Community-based Victim Services to guide the development, implementation, and governance of these units.*

3.7.4 *The Ministry of Public Safety and Solicitor General should ensure that appropriate contract requirements mandate the establishment of advisory committees and the development of guidelines and protocols as specified above in Actions 3.7.2 and 3.7.3.*

Specialized personnel/dedicated court time

3.7.5 *The Ministries of Attorney General and Public Safety and Solicitor General should undertake further exploration, including pilot projects and evaluation of models for specialized criminal justice personnel, including judges, and/or dedicated court days, in order to assess their suitability and effectiveness to improve the criminal justice response to domestic violence in communities across BC. Particular attention should be paid to linking these specialized approaches to existing domestic violence units and to ensuring that the needs of both rural and urban communities and the needs of various cultural communities are served by such approaches.*

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- 3.7.6 *The Ministry of Attorney General should provide resources to encourage greater use of innovative and effective prosecution strategies and coordinated approaches by Crown counsel in domestic violence cases across the province, including:*
- *specialized Crown counsel resource units on domestic violence, based on an understanding of the crucial role of community coordination*
 - *the development of practice bulletins and reference to the Ministry of Attorney General VAWIR Policy to provide background information for use by Crown counsel confronted with these cases*
 - *enhanced professional development opportunities for Crown counsel, including an emphasis on particularly vulnerable domestic violence witnesses*
- 3.7.7 *Specialized personnel should attend rural and isolated communities to assist in the development of effective, specialized criminal justice approaches to domestic violence with a particular focus on local community needs.*

Specialized courts

- 3.7.8 *If domestic violence courts are implemented in BC, lessons learned in other jurisdictions and the following key elements should be considered and incorporated into the BC model, including monitoring and evaluation of their operation and impact:*
- *Coordination of justice system response in policy and practice*
 - *Methods to expedite cases*
 - *Sensitive, informed, appropriate service provided by trained justice professionals*
 - *Coordination with a range of other service providers*
 - *Early access to treatment by offenders to capitalize on offender motivation to change and allow for more immediate response*
 - *Monitoring of offender compliance with meaningful sanctions to hold offenders accountable, including successful completion of court-ordered treatment programs and escalating consequences for non-compliance*
 - *Access to support, information and referral by victims*
 - *Monitoring and evaluation of systems to assess effectiveness and identify need for changes*
 - *Shared information systems with family court*
 - *Enforcement of court orders and immediate prosecution of breaches.*

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3.7.9 *Critical components and actions included in this Framework Paper should be taken into consideration in the development and implementation of Vancouver’s Downtown Community Court, including monitoring and evaluation of its operation and impact.*

Training

(Recommendations on training are also included under every other Critical Component.)

3.7.10 *Ministries and police should fund, develop, and deliver training on domestic violence for generalist and specialized justice system personnel, addressing the critical components outlined in this Framework Paper.*

3.7.11 *Adequate funding for ongoing training for generalist and specialized personnel should be built into budgets on an ongoing basis.*

3.7.12 *Training on special topics, such as new legislative or policy initiatives, the needs of specific marginalized groups, or new developments in understanding the dynamics of domestic violence, should be provided for generalist and specialized personnel in a timely manner and subsequently incorporated into ongoing training.*

3.7.13 *Training of supervisors in all components of the justice system should focus on their responsibility to ensure that policy and best practices are consistently followed with respect to domestic violence cases.*

3.7.14 *A mechanism for coordination of training across sectors on both an initiative-specific and an ongoing basis should be explored.*

(For further information on specialized domestic violence responses in BC, see Appendix 2)

3.8 Monitoring and Evaluation

(Monitoring and evaluation recommendations are also included under most other components)

3.8.1 *Statistical data collection systems across all components of the justice system should be integrated in order to facilitate cross-system tracking and monitoring of domestic violence cases as they proceed through the justice system and comprehensive evaluation of the justice system response to these cases.*

3.8.2 *Recognizing the fundamental role that “spousal” or “K” file designation plays in the management of domestic violence cases:*

- *Training of all justice system personnel should emphasize the purpose and importance of appropriate and consistent designation of domestic violence*

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cases as “spousal” files. Training of supervisors should include a focus on returning files to personnel who have not properly designated files as “spousal” files.

- *Monitoring and accountability mechanisms should be put in place to ensure compliance with policy on “spousal” file designation.*
- *Consideration should be given to incorporating a “spousal” designation into the police data collection system (PRIME) as a required field.*

(See also Actions 3.6.6 and 3.6.7)

- 3.8.3 *Recognizing that the particular circumstances and needs of Aboriginal women and immigrant and refugee women may impact on their experience of domestic violence, Ministries should explore with Aboriginal and the immigrant and refugee communities ways in which cultural or immigration factors might be captured statistically on a routine basis.*
- 3.8.4 *Statistical collection and analysis and production of statistical reports on justice system processing of domestic violence cases should be established as an integral part of the operations of the Ministries of Attorney General and Public Safety and Solicitor General, both as routine practice and to examine specific issues over a limited time period. Routine statistics should be made publicly available in an accessible format on a regular (monthly or quarterly) basis. All reports should be provided to the senior government coordinating committee for review and action as necessary.*
- 3.8.5 *An applied research function should be incorporated into the ongoing operations of the Ministries of Attorney General and Public Safety and Solicitor General in order to increase understanding of the justice system response to domestic violence and inform the development of policy and programs. Consideration should be given to research collaboration with the Justice Institute of BC and BC Institute Against Family Violence as they proceed with the development of a Centre for the Prevention and Reduction of Violence. Priority should be given to research examining the effectiveness of current justice system approaches to domestic violence, including their impact on recidivism.*
- 3.8.6 *A monitoring and evaluation component should be included in the development, implementation, and funding of all new initiatives to address domestic violence, in order to assess the success of the initiative and make necessary changes in a timely manner. The critical components included in this paper should inform the development, implementation, and evaluation of all new initiatives in this area.*
- 3.8.7 *Consideration should be given to developing guidelines and criteria for establishing death review panels in cases of domestic violence. Any approach adopted should involve experts from community-based anti-violence organizations, including organizations specifically focused on immigrant and Aboriginal populations.*

Appendix 1

Important Statistics on Violence Against Women in Relationships

BC Data 2000-2006

Police data

- In 2000, there were 10,120 incidents of spousal assault reported in British Columbia, a 3% increase from the 9,870 reported in 1999 (Ministry of Attorney General, Police Services Division, 2001).
- In B.C. in 2005, 10,273 incidents of spousal assault were reported to police (Police Services, Province of BC, 2006a).
- In 2006, data from the Vancouver Domestic Violence Unit show that DVU cases, compared with all “K⁴⁴” files from Vancouver, have double the conviction rates (67% to 33%, including peace bonds⁴⁵), the same acquittal rates (7%) and less than half the rate of stays of proceedings (25% compared to 60%) (Vancouver Domestic Violence Unit, 2007).

Criminal Justice Branch data

- In B.C. in 2006 there were 75,390 accused persons whose matters concluded. Of that total, 8,986 were substantive “K” files (spousal assault) representing 12% or approximately one in eight persons prosecuted in B.C. (Ministry of Attorney General, Criminal Justice Branch, 2007).

Victim Services data

- In B.C. during the 2005/06, fiscal year, 21,197 people reported being victims of spousal assault to a funded Victim Service Program (Ministry of Public Safety and Solicitor General, Victim Services and Crime Prevention Division, 2006b).

⁴⁴ See the footnote 38 under *2.8 Monitoring and Evaluation* for the definition of “K” file or spousal assault used in BC’s VAWIR Policy.

⁴⁵ Peace Bonds are included because of the admission of responsibility. They do not denote a conviction.

Canadian National Data 1999-2006

Prevalence and severity

- Women who are victims of domestic violence are three times more likely than male victims of domestic violence to be physically injured, five times more likely to require medical attention, five times more likely to report being choked, much more likely to fear for their lives, and twice as likely to have suffered more than ten violent episodes (Statistics Canada, 2001b).
- In 2005 (similar to other years) the spousal homicide rate against women was five times higher than the rate against men (Johnson, 2006).
- In Canada, the percentage of women victims of spousal violence reporting to the police over the preceding five years increased from 29% in 1993 to 37% in 1999. In BC, that increase was from 36% to 43% (Statistics Canada, 2001b).

Violence against Aboriginal women

- In 2004, the rates of domestic violence for Aboriginal women remained more than three times higher than for non-Aboriginal women or men (Johnson, 2006).
- Overall, 21% of Aboriginal people reported being victims of spousal violence in 2004, three times higher than for non-Aboriginal people (7%) (Johnson, 2006).
- Not only did Aboriginal women report higher rates of spousal violence in 2004, they were also significantly more likely than non-Aboriginal women to report the most severe and potentially life-threatening forms of violence, including being beaten or choked, having had a gun or knife used against them, or being sexually assaulted (54% of Aboriginal women compared with 37% of non-Aboriginal women) (Johnson, 2006).
- Aboriginal people reported rates of stalking that were twice the level for non-Aboriginal people (17% compared with 9%). Rates were highest for Aboriginal women, almost twice as high as for non-Aboriginal women (21% compared with 11%) (Johnson, 2006).

Other Statistics

Femicides

- According to Police Services Division, between 1997 and 2006 there were 124 female victims in spousal and intimate relationships who were murdered in BC (Personal Communication with Police Services Division, February 2008).

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- In 2007, according to the BC Coroner's office, there were 27 homicides involving female victims. At this time there is no way of knowing if these are all domestic violence-related (Personal Communication with Coroner's Office, December 2007).

Impact on children witnessing abuse

- Almost 40% of women assaulted by spouses said their children witnessed the violence against them (either directly or indirectly) and in many cases the violence was severe. In half of cases of domestic violence that were witnessed by children, the woman feared for her life (Statistics Canada, 2001b).
- Children were more likely to be exposed to violence against their mothers than against their fathers, and were most likely to witness or hear serious assaults on their mothers (Statistics Canada, 2001b).
- There is 30 to 40 % overlap between children who witness violence in relationships and children who experience direct physical abuse themselves (Sudermann et al, 1996).
- Children who had seen violent behaviour were more likely than those who had not to be overtly aggressive. Levels of physical aggression remained high 2 and 4 years later for both sexes, and anxiety was high 2 years later for boys (Sudermann et al, 1996).
- New Westminster Domestic Violence Unit reports that 60 - 70% of domestic violence cases involve children (New Westminster Domestic Violence Response Team, 2007).

Impact of specialised response

- In a review of the Calgary "HomeFront" Specialized Court, accused who went through the specialized docket court were much less likely to commit new offences, compared to accused in the baseline sample prior to the inception of the specialized court, 12% compared to 34% (Hoffart & Clarke, 2004).
- Fewer of the HomeFront accused breached conditions of recognizance. 6.1% breached in the specialized model when compared to the baseline (17.6%) (Hoffart & Clarke, 2004).

Costs of violence

- Violence against women costs the Canadian health and social systems \$5.2 billion a year (Varcoe, 2006).

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- In B.C. in 1996, estimates of total identified costs including policing, corrections, Criminal Injury Compensation, victim assistance Programs, counselling for women, Aboriginal programs, mental health care, alcohol and drug treatment, income assistance, transition houses, sexual and women assault centres, women's loss of work time, Children who Witness Abuse programs and treatment programs for assaultive men was \$385 million (Kerr & McLean, 1996).
- The partial estimated annual costs of violence against women in four policy areas are:
 - Social services/education \$2,368,924,297
 - Criminal justice \$871,908, 583
 - Labour/employment \$576,764,400
 - Health/medical \$408,357,042

These result in total selected estimated costs of \$4,225,954,322 (Greaves et al, 1995).

Appendix 2

Selected BC Government Initiatives Related to Domestic Violence

Community and government initiatives that have an impact on domestic violence are constantly evolving. This appendix provides an overview of current key Ministry of Public Safety and Solicitor General (MPPSG), Ministry of Attorney General (MAG) and Ministry of Community Services (MCS) activities related to domestic violence within the BC Criminal Justice context.

Community-Based Responses to Domestic Violence

In addition to the justice ministry initiatives listed in this appendix, there are many non governmental programs and projects addressing domestic violence. These programs play a vital role in enhancing the community response to violence against women. Many of these community-driven initiatives come under the umbrella of three leading provincial organizations: the BC Association of Specialized Victim Assistance and Counselling Programs (BCASVACP), the BC Yukon Society of Transition Houses (BCYSTH) and the Ending Relationship Abuse Society (ERA). The Ministry of Community Services (MCS) provides funding to these organizations for their coordination, training and support to the sector.

The Community Coordination for Women's Safety (CCWS) Program, one of the partners involved in writing this paper, is a program of the BCASVACP which is funded by MCS. CCWS works at the community level in collaboration with criminal and civil justice agencies, health, Community-based Victim Services, transition Houses, counseling programs and child welfare to maximize the effectiveness of services for women facing violence. It promotes both police and government agency cooperation at the local level, and issues of women's safety in the formulation of provincial policy.

Ministry of Public Safety and Solicitor General

Corrections Branch

Specialized Probation Officer Training

Probation officers in British Columbia receive comprehensive specialized training in the management of sentenced domestic violence offenders. This mandatory training covers the dynamics of relationship violence, the Ministry of Attorney General *Violence Against Women in Relationships Policy*, application of risk assessment tools, determination of appropriate modes of supervision and interventions, facilitating offender behavior change, pre-sentence report considerations, effective monitoring and enforcement of criminal court orders, victim issues (including notification and referral to victim serving agencies) and considerations specific to new immigrants and refugees.

Application of Risk Assessment Tools

Probation officers apply validated risk assessment tools to all sentenced domestic violence offenders. When properly applied and interpreted, these tools guide decisions regarding the intensity of probation supervision and the specific behavioural interventions required to reduce an offender's potential to re-offend. Applications of risk assessment tools are a continuous process that commences at first contact and remains a priority throughout the offender's involvement with Community Corrections.

Relationship Violence Prevention Programming

The Corrections Branch provides a Relationship Violence Prevention Program to sentenced domestic violence offenders in the community who are court ordered to attend. *The Relationship Violence Prevention Program* is also delivered in three provincial correctional centres: Prince George, Kamloops and Nanaimo.

The program is comprised of two consecutive components: *Respectful Relationships* is a 10 week program which is delivered by corrections branch staff. It is followed by *the Relationship Violence Program*, a 17 week program that is delivered by contracted service providers. Results of a recently concluded impact study of the combined *Respectful Relationships* and *Relationship Violence Program* indicates statistically significant reductions in both domestic violence recidivism and general recidivism.

Multicultural Assaultive Men's Treatment Programming

The Corrections Branch contracts with three Lower Mainland multi-cultural service agencies, to provide a modified *Respectful Relationships/Relationship Violence Program* to sentenced domestic violence offenders in their first language (e.g. Punjabi, Hindi, Mandarin, Cantonese, etc).

Respectful Relationships Program Co-Facilitation with Aboriginal Communities

The Corrections Branch has trained 10 Aboriginal communities in the delivery of *Respectful Relationships*, enabling co-facilitation with probation officers in a variety of communities. Due to the success of the pilot initiative, additional trainings have been scheduled for this year and a program of evaluation planned to monitor efficacy of this delivery model.

Proactive Victim Notification, Contact and Referral

The Corrections Branch maintains targeted spousal assault policy consistent with the Ministry of Attorney General, *Violence Against Women in Relationships Policy*. Central to Corrections Branch policy is proactive notification of victims who are the subject of protective conditions. Probation officers undertake notification to ensure victims understand protective conditions, are provided with a copy of the order, receive an explanation of the process to report concerns or violations, are encouraged to develop a safety plan and are provided with timely information regarding changes to protective conditions and specialized victim support services. Proactive victim contact continues throughout the course of offender supervision to monitor offender compliance with protective conditions and is an integral component of ongoing risk assessment and offender management.

Police Services Division

Training On Violence Against Women in Relationships

The Policing and Public Safety Branch, (MPPSG), RCMP “E” Division and Justice Institute, under the direction of the BC Chiefs of Police, are developing a province wide web-based training program for police and Crown on violence against women in relationships. This includes modules on the Nature and Dynamics of Violence Against Women in Relationships, Understanding The Abuser and Risk Factors, Best Practices for Investigating Domestic Violence and the BSAFER Assessment Model. The web-based training will be pilot tested with Langley RCMP in 2008.

Domestic Violence Units

A model of the DVU is detective and community-based victim service worker working in partnership to address domestic violence cases. The goal is to increase safety for women and children, hold offenders accountable and reduce the harmful impact of violence. New Westminster and Vancouver are the most established and serve as models for other communities. The Units work with community advisory committees.

A consistent approach to development and implementation is required based on the success of models in Vancouver and New Westminster. A Domestic Violence Unit advisory team, including community partners, has been established to develop

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principles, best practice guidelines and to advise on the establishment of any new Domestic Violence Units.

The first phase of a planned strategic approach was a one day forum for police, held in January 2008 entitled *Domestic Violence Units: Mitigating Risks and Best Practices Forum*. Further opportunities for dialogue with victim service workers and other justice partners are being planned for 2008,

Designated Police Officers

Units in Langley and Nanaimo have established designated officers attached to their Serious Crime Sections to provide enhanced investigational support to all domestic violence cases. The focus is on high risk cases where there is evidence of breaches, escalating violence, and working with victims who are “reluctant”. These positions administer the Domestic Violence Emergency Response Systems (enhanced security with home alarms, and cell phones linked directly to 911). Langley is exploring opportunities to work with community – based programs in a partnership model.

Victim Services and Crime Prevention Division

Community and Police -Based Victim Services

The Division funds 156 Victim Service programs, providing emotional support, information referrals and practical assistance to people affected by crime and trauma. 93 are police-based, including Police Services of BC and 63 are community- based, including Victim Link and the BC Association of Specialized Victim Assistance and Counselling Programs. Police - based programs serve victims of all types of crime and trauma, and work with police and the community in situations that involve multiple injuries or deaths. Community- based programs provide support services to victims of family and sexual violence including women, children, male survivors of sexual abuse, ethno-specific communities, and aboriginal peoples. These programs ensure that services are available to people who may be hesitant to involve the police. VictimLink is a Crisis and Support line for victims of family and sexual violence. This line is 24/7, toll free, confidential, multilingual and TTY.

In an effort to provide effective and responsive services, the Division funds two provincial associations - BC Association of Specialized Victim Assistance and Counselling Programs and Police Victim Services of B.C. Both Associations work with the Division to address issues and concerns related to family and sexual violence.

Serving Marginalized Communities

Victim Services and Crime Prevention Division funds a number of ethno-specific and Aboriginal programs serving victims from marginalized groups throughout B.C. In 2007/8 the Division partnered with Multiculturalism and Immigration Branch to develop new programs and services for implementation in fiscal 2008, using funding

announced for settlement and immigration services. The Division also funded an Aboriginal research initiative to review innovative models of service delivery in rural, remote and isolated communities in BC as part of the Division's Aboriginal Strategy.

Court-Based Victim Service Workers

Currently there are two court-based victim service programs in BC. One program is dedicated to providing court support to the victim family members in the Missing Women Trial. The other is a court support pilot project located at the Port Coquitlam Provincial Court to provide victims, witnesses and family members with information, court orientation, accompaniment, and referral services. The Victim Service Caseworkers are employed by the Ministry of Public Safety and Solicitor General and possess specialized training and knowledge of the criminal justice system.

Domestic Violence Courts

Key components of domestic violence court models include: interagency collaboration, enhanced police investigation, victim support, designated prosecutors, and defense counsel, treatment programs and data collection to allow for more effective case management. There are no Domestic Violence courts in B.C. at this time, but several communities have conducted research. These communities include: Bulkley Valley (Smithers, Burns Lake, Houston and Hazelton and territories of Gitksan, Wetsuwet'en and Lake Babine), Duncan and Port Alberni.

Victim Safety Unit

The mandate of the Victim Safety Unit is to promote victim safety for registered victims, by:

- Notifying victims and civil restraining order protected parties regarding the provincial custody status of offenders
- Administering the Victim Travel Fund
- Representing victims' perspectives and interests on the provincial High Risk Recognizance Advisory Committee
- Administering the Cell Phone and Home Alarm program for high risk victims
- Working with local victim service programs to ensure victims are aware of and have access to the range of services to ensure their safety

Victim Service Worker Training

All victim service workers receive training to work with victims of domestic violence as part of the basic training (Module 2) for Victim Services Program Coordinators, Managers and Case Workers. This training is funded by Victim Services and Crime Prevention Division. Module 2 training includes: the dynamics of violence against women; power and control; the violence against women in relationships policy; and working with women from marginalized communities. Multidisciplinary training on

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Priority Response Partnerships For Women At High Risk of Violence is available upon request.

Victim Perspective on Criminal Justice Reform Initiatives

The Division is involved in the early stages of planning, on some key Criminal Justice Reform initiatives, and is providing a victim's perspective (e.g. Bail Reform, Prolific Offenders, and the Vancouver Community Court.) It is unknown at this time if these initiatives will involve a specific focus on domestic violence.

Safety Assessment and Planning

The *Aid to Safety Assessment and Planning Manual* was developed in partnership with the BC Institute Against Family Violence and distributed to all victim service programs, transition houses and stopping the violence counsellors in 2007. The intent is to ensure consistency in the identification of abuser factors and victim safety factors and to create the most effective safety strategies possible for women and their children given the available resources. A web based training site is being developed.

Ministry of Attorney General

Criminal Justice Branch

In 2007, the Criminal Justice Branch seconded a Crown prosecutor, who was working with the New Westminster Domestic Violence Unit, to assist Crown in developing best practices in prosecuting Domestic Violence cases and assist Police in developing best practices for investigations involving Domestic Violence. The main objectives of this position for the coming year are to:

- Develop proposed best practices recommendations in conjunction with Criminal Justice Branch Head Quarters regarding the prosecution of Domestic Violence.
- In conjunction with RCMP and Municipal Police forces, create complementary Best Practices Training for police investigations in the area of Domestic Violence
- Work with the Langley RCMP detachment and Surrey Crown testing the Spousal Assault Risk & Threat Assessment Web-based training
- Longer Term Goal is to develop and deliver mandatory training for all Crown counsel in the area of Domestic Violence Prosecutions, incorporating best practices, and how to work most effectively with justice system partners, in particular with local police forces to maximize relevant evidence gathered at time of the offence.

Multiculturalism and Immigration Branch

In 2007, the federal government announced an increase in funding for settlement services in British Columbia. Funding was increased in 2006/07 by \$27 million. In 2007/08, total funding came to \$75.4 million. Funding will increase to \$104.3 million for 2008/09, up from \$75.4 million in 2007/08.

The Multiculturalism and Immigration Branch is working with the Ministry of Public Safety and Solicitor General and the Ministry of Community Services to address settlement issues related to domestic violence and immigrant populations. This work is expected to address some of the recommendations in the *Empowerment of Immigrant and Refugee Women Who Are Victims of Violence in their Intimate Relationships*. BC Justice Institute, 2007, particularly as they relate to training and service delivery.

The Branch has also recently signed an MOU with the Ministry of Public Safety and Solicitor General to use federal funding to expand their Victim Services' Multicultural Outreach program. This three-year pilot project will be evaluated, and may be expanded, depending on the results.

Ministry of Community Services

Community Programs Branch

The Community Programs Branch is responsible for transition house programs for women and their dependent children leaving abusive relationships; counselling programs for women who have experienced violence and children who have witnessed abuse; violence prevention initiatives; outreach services and multicultural outreach services; and mentoring for women. MCS invests over \$50 million on these services and initiatives.

Intervention Services

The Transition House program includes 63 transition houses, 27 safe homes and 9 second stage housing units. These services provide safe, supported temporary shelter, food, crisis intervention, and referrals.

There are 102 Stopping the Violence programs in 87 communities that provide counselling for women who have experienced childhood abuse, sexual assault and violence in relationships. Ninety-two Children Who Witness Abuse Counselling programs assist children who have witnessed abuse, threats or violence in the home, and their adult caregivers (in most cases the mother). Both counselling programs provide individual and/or group counselling based on the needs of the individual.

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Outreach Services are offered in more than 50 communities for women fleeing abuse. Multicultural Outreach Services are provided in 10 communities, in up to 24 different languages, to ensure women are assisted by people who speak their own language and are familiar with their culture. Outreach workers meet regularly with staff in police departments, counselling programs, neighbouring transition houses and safe homes, social agencies, alcohol and drug programs and other outreach services to identify women in crisis and connect them with the community supports they need.

Prevention of Violence Against Women Initiatives

MCS supports initiatives that prevent violence against women through awareness and education, collaboration and partnerships, and community-based services. The objectives are to change attitudes and behaviours that lead to violence against women and girls and to engage men and boys, youth, diverse organizations and sectors.

Mentoring for Women

Empowered to Work is a mentoring initiative to assist women who are transitioning into new careers, entering, or re-entering the labour force to be successful in seeking and retaining employment/self-employment. Emphasis is on women returning to the labour force after an absence and women seeking to enter and be retained in high demand, high skilled occupations.

Appendix 3

Technical Discussion of Information-sharing

Introduction

This appendix provides additional background to Section 2.4 of this paper which deals with information-sharing.

There are two key reasons why information sharing is critical in domestic violence cases:

- The need for victims to get immediate access to specialized support services
- The need for all involved agencies to engage victims in safety planning which involves sharing certain information about critical risk factors.

Proactive referrals to specialized victim services

In domestic violence cases, providing early intervention and support to the victim have been identified as critical to the victim's safety and her ability to effectively participate in the justice process (Dawson & Dinovitzer, 2001; Justice Institute of BC, 2005; Pratt, 1999; Russell, 2002; Tutty, Ursel, & Douglas, in press).

Lethality assessment screening processes for first responders have identified pro-active referral to domestic violence advocates as a crucial step in assessing current danger and preventing further violence or death (Campbell, 2001, Maryland Network Against Domestic Violence, 2007).

Proactively⁴⁶ referring the woman to specialized victim services is one way of creating a safety net to avoid a situation where her case "falls through the cracks" (Goundry, 1999; Nova Scotia Department of Justice, Public Prosecution Service and Department of Community Services, 2004).

It may be difficult for the woman to make that first contact herself particularly in the immediate aftermath of the assault. She may be in shock or suffering from post-traumatic stress or she may be unfamiliar with the benefits of the service.

⁴⁶ (See 2.3 *Specialized victim support* and 2.4 *Information-sharing* for further discussion of the referral process.)

Coordinated safety planning

British Columbia has close to 400 specialized victim support programs in place to respond to domestic and sexual violence. These programs play a critical role in coordinated safety planning. For example, they can:

- Help the woman collect and document information about risk factors
- Help the woman identify other evidence indicating that the abuser is a high risk to reoffend
- Support the woman in sharing this information with police and other criminal justice system personnel
- If the woman is having trouble getting the information she needs to manage risk, victim service workers can, with her consent, make enquiries about why certain information was not released and whether safety and public interest considerations in the applicable privacy laws have been considered (Community Coordination for Women's Safety, 2006).

In BC, the *Aid to Safety Assessment and Planning Guidelines* (British Columbia Institute Against Family Violence, 2006), developed in consultation with risk management specialists Steve Hart and Randy Kropp, emphasize the need for involved agencies and the victim to work together and where appropriate, share information on known risk factors. This can lay the foundation for a coordinated risk management strategy.

Applicable legislation

Referral and information-sharing practices in domestic violence cases in BC are governed by the *Victims of Crime Act* (VOCA), the *Freedom of Information and Protection of Privacy Act* (FIPPA) and the federal *Privacy Act*. FIPPA applies to municipal police and the *Privacy Act* applies to RCMP. Current interpretations of the relevant privacy laws make it difficult for police to provide the victim's name and contact information to specialized victim services and to share information on risk factors with other involved agencies in a timely manner (Royal Canadian Mounted Police, 1996; Community Coordination for Women's Safety, 2006c).

In response to the tragic shooting of Martina Seymour in Port Moody in 2004, Federal Privacy Commissioner Jennifer Stoddart commented to the media that the *Privacy Act* has broad exemptions allowing release of information in high risk cases like Seymour's but that there was a need for better understanding of privacy laws and the public interest within the criminal justice system (Harper, 2004). In the Seymour case, before the shooting, the police did not disclose to the victim crucial information regarding her ex-partner's past violence with another partner, citing privacy restrictions.

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Under FIPPA and the *Federal Privacy Act*, consent would normally be required before personal information can be disclosed to another agency or individual. Obtaining consent is not always practical in high risk cases involving domestic violence where it is likely that the victim and offender will have ongoing contact and time is of the essence.

The potential need to release information quickly where the risk is high is addressed in both FIPPA and the *Privacy Act*. Section 33.1 of FIPPA permits the head of the public body to release information without consent if they determine that compelling circumstances exist affecting anyone's health or safety. Under this section, notice of disclosure must be mailed to the last known address of the person the information is about unless it is determined that this notice could cause further harm. Section 8(2)(m) of the *Federal Privacy Act* allows for release without consent where, in the opinion of the head of the government institution involved, the public interest in disclosure clearly outweighs any invasion of privacy that could result from disclosure.

Provincial and federal privacy legislation also addresses situations where two agencies are working together to achieve similar goals. FIPPA Section 33.2 permits disclosure of personal information without consent for the purpose for which it was obtained or for a use consistent with that purpose. *Privacy Act* section 8(2)(a) contains similar wording. Under s. 34(1) of FIPPA the information can be shared under the consistent purpose clause if the use has a reasonable and direct connection to the original purpose for which the information was gathered and the use is necessary for performing statutory duties or for operation of a legally authorized program.

FIPPA s. 33.1(c) also permits disclosure of personal information without consent if the disclosure is made in accordance with a provincial or federal enactment. *Privacy Act* s. 8(2)(b) permits disclosure in accordance with any Act of Parliament. VOCA ss. 5 and 6 list information which justice system personnel will provide to the victim either automatically or upon request. Section 7 lists information that will be given in appropriate circumstances. VOCA does not address the situation of information sharing between agencies. Nor does VOCA specifically provide that justice system personnel may release information to victim services in appropriate circumstances, for example, in domestic violence cases where the risk is high. The result is that police agencies cannot rely on FIPPA s.33.1(c) to provide risk related information to the victim or to pro-actively share her contact information with specialized victim services. *Privacy Act* s. 8(2)(b) cannot be relied on in any event as it only refers to a federal enactment authorizing release.

For some time, BC victim-serving organizations have been advocating for a loosening of privacy restrictions in high risk domestic violence cases or a broader interpretation of existing privacy provisions (Community Coordination for Women's Safety, 2004; Community Coordination for Women's Safety, 2005; Community Coordination for Women's Safety, 2006c; Goundry, 1999). There appear to be challenges associated with using the existing FIPPA and *Privacy Act* provisions for this purpose:

- Health and Safety exception: FIPPA s. 33.1 requires the presence of "compelling circumstances" affecting health or safety—an onerous test which can only be

decided on a case-by-case basis by the head of the public body holding the information.

- Public Interest in Disclosure exception *Privacy Act* -- s. 8(2)(m): This must also be determined on a case-by-case basis and has been interpreted by the RCMP as requiring the involvement of the Head of “E” Division (which is all of British Columbia) in every case. (RCMP, 1996; CCWS, 2006)
- Consistent Purpose exception-- FIPPA ss. 33.2 and 34(1) and *Privacy Act* s. 8(2)(a): While it has been argued that this provision could be interpreted to allow greater information sharing in high risk domestic violence cases, there is no firm agreement or policy guideline to this effect which could be applied by police. Furthermore, the provincial act test for consistent purpose is only satisfied if the purpose is deemed necessary for performing statutory duties or for operating a legally authorized program. At this point in time it appears unclear whether community-based programs operating under contract with the provincial government are operating a legally authorized program. This would need to be clarified if police are to release information regarding offender-related risk factors to victim-serving agencies using the consistent purpose exception. Section 1 of the *Victims of Crime Act* defines “justice system personnel”. Currently, police-based and Community-based Victim Services are not listed in the statutory definition; however, section 1 also states that “...persons working in positions designated by the Attorney General are included in the definition”. Being designated under VOCA carries with it certain statutory obligations, particularly under sections 5 and 6 of the Act. It has been suggested that if victim services were designated as justice system personnel under VOCA, it would be possible for information to be shared with them under the consistent use exceptions contained in provincial and federal privacy legislation. The legal implications of such a designation need to be further investigated, however.
- Disclosure in accordance with an enactment: -- FIPPA s. 33.1(c): Since VOCA does not specifically provide that justice system personnel are to release personal information to the victim or victim services in high risk domestic violence cases, this section of FIPPA cannot be relied upon by police as grounds for release without consent. *Privacy Act* s. 8(2)(b) cannot be relied on in any event as it only refers to a federal enactment authorizing release.

A response at the provincial level

After conducting both internal and external reviews into the deaths of Lori Lee Maxwell and Bruce Allan George in 2000 in Nova Scotia, that province determined that both provincial and local protocols were needed, requiring the referral of high risk cases to primary service providers including victim services (Nova Scotia Department of Justice, Public Prosecution Service and Department of Community Services, 2004). A provincial High Risk Case Coordination Protocol Framework for domestic violence cases was developed in 2004 with the overall goal of case coordination. The parties to this protocol include the justice agencies: Police, Victim Services, Corrections and Court Services, and Crown counsel; and the Department of Community Services: Child

Welfare, Transition House Association member agencies, and Men's Intervention Programs.

The focus of the Nova Scotia Protocol is on case coordination through information sharing, effective planning, collaborative actions and improved case tracking. The Framework describes the goals of coordination as increased victim safety, risk reduction and less duplication. One of the key desired outcomes identified in this Protocol is proactive referral (within 24 hours or as soon as possible) in high risk cases to ensure that all primary service providers have as much information as possible about the case (Nova Scotia Department of Justice, Public Prosecution Service and Department of Community Services, 2004).

In 2006 the BC Ministry of Public Safety and Solicitor General Victim Services and Crime Prevention Division developed an action plan in response to the Bethell Inquest recommendations, including inquest recommendation 2 which refers to the need for inter-agency information-sharing protocols. The Ministry action plan includes a commitment to work with justice partners including police-based and Community-based Victim Services to develop information-sharing protocols for high risk victims under exemptions provided by federal and provincial privacy (Ministry of Public Safety and Solicitor General, Victim Services and Community Programs Division, 2006a).

Key elements of any provincial protocol should address:

- A definition of what constitutes high risk
- Responsibility for risk assessment
- The need for proactive referrals
- The need for coordinated safety planning processes, including initial and ongoing information-sharing related to risk factors and identification of critical case developments where risk for the victim increases
- Police and Community-based Victim Services' access to certain components of the JUSTIN database.

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