

Information Bulletin
Community Based Victim Service Workers – Access to JUSTIN
December 2018

Gender-based violence – both domestic violence and sexualized violence – continues to undermine the safety and equality of women and their children across in British Columbia. Each year, over 40,000 women and children affected by violence access a variety of supports and services from Victim Services programs.¹

In order to respond effectively and in a coordinated, cross-sectoral fashion to gender-based violence, the Provincial Government's updated 2010 Violence Against Women in Relationships Policy recognizes the critical role that Victim Services staff play in ensuring that victims receive a comprehensive response from the criminal justice system. All victims of family and sexual violence are referred to Community Based Victim Services (CBVS) workers, pursuant to the Ministry of Public Safety and Solicitor General's *Referral Policy for Victims of Power-Based Crimes*. The VAWIR policy describes the key supports the Victim Services workers provide to victims of gender-based violence including: developing effective safety plans, keeping victims informed of the criminal justice process, preparing them for the court experience, and referring them to other services that may be of assistance. According to the VAWIR policy, Victim Services personnel are also charged with obtaining, providing or arranging for victims to receive case specific information, which they are entitled to according to sections 6 and 7 of the *BC Victim of Crimes Act*.

The BC Coroners Service Death Review Panel on Intimate Partner Deaths, 2010-2105 also stressed the importance of cross-sectoral partnerships and enhancing intimate partner data access, quality and collaboration to prevent domestic violence homicide, stating that:

Service providers must work collaboratively and effectively share information so that safety plans, referrals, interventions and supports are comprehensive, effective and responsive to the needs of the victim and their family.

For many years, Community Based Victim Services workers, as individuals and in conjunction with support from the Ending Violence Association of BC (EVA BC), have been advocating for limited, "need to know" access to JUSTIN - the provincial repository of information about all adult and youth criminal cases arising in the province, from initiation through to disposition. EVA BC has submitted that CBVS workers, with their mandate to provide supports and information to victims of sexual and domestic violence, are usually the key actors within the criminal justice system providing notifications to victims regarding outcomes of a court hearing. Furthermore, CBVS workers are trained

to convey information to victims in plain, accessible language, can often provide information in a victim's primary language, and do so within a relationship that is trusting and safe for those who have experienced extensive trauma. However, in order to effectively safety plan with victims, CBVS workers need updated and timely information about the disposition of cases as they proceed through the system. Direct access to the Court Inquiry Module within JUSTIN would allow workers to provide their clients with quick and accurate updates on scheduled court appearances, outcomes, conditions, and, perhaps most importantly, the custody status and any release conditions placed on the accused. This need is particularly acute in highest risk domestic violence cases-where the potential for serious bodily harm or death is most present and the need to create informed and appropriate safety plans is particularly essential.

In September 2018, EVA BC hosted a conference call with CBVS workers across the province to discuss the information gaps, staff workload issues, and most importantly, client safety concerns that result from the lack of access to JUSTIN. The intent of the conference call was also to learn more about the strategies that individual workers have employed to try and obtain case information clients need to remain safe. CBVS workers described the limitations of currently available information sources and the complications associated with the current strategies they use to get information for victims:

- The Victim Safety Unit can be a valuable source of information; however staff at the Unit are not available after 4:30 pm.
- Court Services Online can provide some limited case information, but appearances from late afternoon court dockets are often not updated until the next day. Where there is a publication ban, the accused is a young offender or the victim is a child, information about a case is not available on Court Services Online. Because CBVS workers are mandated to work with those who have experienced power based crimes, a significant percentage of those clients are children or involve cases where a publication ban has been imposed, and thus Court Services Online is not a suitable information source in those cases.
- Several CBVS workers indicated that they spend extended periods of time trying to obtain case information for victims from local police detachments, the presiding Crown Counsel on the file, Police Based Victim Services staff (who have access to JUSTIN) or other criminal justice personnel. These strategies are at times successful, but require a lengthy investment of time and effort which many believe could be better spent providing other crucial supports to victims. Furthermore, CBVS workers advised that obtaining information in this manner also relies on the development and maintenance of cooperative and trusting relationships with other criminal justice system actors - a process which can be effective when such relationships are established - but is challenged when there is staff turnover in those agencies.
- Many of the above criminal justice agencies - in particular Crown Counsel and police detachments - have limited staff and are chronically under-resourced (especially in remote communities) and thus are not always readily available to provide the critical information victims need to remain safe. Responding to requests from CBVS workers places additional burdens on limited system resources.

- Some CBVS workers stated that they will spend a full day in court every week to obtain information for victims about scheduling and disposition of cases. This is a time consuming option not feasible for many workers, especially for CBVS workers who are operating on part-time hours.

Because CBVS workers often lack timely and accurate case information and despite the creative workarounds described above, the impact on victims of sexual assault and domestic violence can be significant, and lead to increased risks of harm. In the conference call, participants described a number of situations where victims were put at additional risk:

- Accused persons are routinely released from custody on Friday afternoons. Because system staff are unavailable beyond 4:30 pm and Court Services Online is not updated until the following week, victims do not receive notification of the release until Monday. Lack of proper notification means that victims cannot create safety plans and are put at risk of additional harm, including serious bodily harm or death.
- Without the assistance of CBVS workers, victims often do not fully understand or are not made explicitly aware of the release conditions placed on the accused. This places victims under pressure from family, friends or the accused to maintain contact in order to rekindle the relationship, placing the victim at increased exposure to abuse and harm.
- Victims who do not have accurate information concerning the whereabouts of an accused are often forced to remain in a shelter or another safe hiding place for an extended period of time. Unnecessary stays in shelters or other secret locations result in stress and anxiety for victims and their families who might otherwise be able to return to their home if staff were able to immediately ascertain the location and release conditions of the accused. When this occurs, it can also mean that another victim in need of a shelter may be turned away at her time of need due to lack of space.
- One CBVS worker described a situation where she was working with a 12-year-old victim assaulted by an adult. The accused was able to obtain a variance to his release conditions allowing him to be within 10 meters of the victim (from an original order of 500 meters). The accused's stated intention was to move next door to the victim's residence. The family was unaware of the order variance for 2 days.

Ensuring access to information while maintaining the integrity of the JUSTIN database

Anti-violence workers understand the importance of privacy rights and the need for the JUSTIN Committee to limit access to sensitive and confidential information to a 'need to know' basis. CBVS workers support the proper regulation of user access and imposition of security controls to prevent unauthorized access to and use of personal information. However, there is also a firm belief that a balance can be struck between protecting the integrity of the JUSTIN system while ensuring that CBVS workers - who are key justice related service providers, funded by a justice ministry - have access to the timely and accurate information they need to support victims as mandated under the VAWIR Policy.

In response to a recent inquiry from EVA BC regarding CBVS access to JUSTIN, the JUSTIN Access Committee provided the following reply:

*JUSTIN was developed for use by criminal justice agencies...for public safety purposes, law enforcement purposes, and the effective and efficient administration of the criminal justice system...Electronic access to the information in JUSTIN is only permitted where providing access is consistent with the fundamental purposes of JUSTIN (above) and applicable law and policy. For both policy and legal reasons, access to the information in the Courts Inquiry Module is limited to criminal justice agencies, law enforcement agencies and specific Court Services and judicial staff. This is, in part, because Courts Inquiry includes **non-public** information about pardoned convictions, cases with publication or disclosure bans, and youth information.*

EVA BC submits that providing access to limited screens - specifically the Courts Inquiry Module - within the JUSTIN environment is consistent with the fundamental principles of JUSTIN and applicable law and policy. Firstly, as noted previously, CBVS workers perform the important function within the criminal justice system of providing information to victims regarding the disposition of a case and assisting those victims to create safety plans based on that information. This includes working with women, children and youth who have experienced violent crime as well as victims whose cases are subject to publication bans, such as victims of sexual assault. Providing access to the information in JUSTIN is therefore consistent with the purposes of enhancing “public safety” as victims of sexual and domestic violence are often at highest risk for serious bodily harm or death. Secondly, the responsibility of CBVS workers to inform victims about the criminal justice system and develop effective safety plans is explicitly delineated in the provincial VAWIR Policy – this policy is directly relevant to decisions regarding the administration of the JUSTIN database.

The anti-violence sector also recognizes that providing CBVS workers with access to the Court Inquiry Module within JUSTIN would require the creation and implementation of rigorous protocols; including an application process and criminal records checks for individual workers; a specialized training regime on appropriate use and monitoring, as well as the establishment of community based access to secure server systems to ensure that access to the JUSTIN environment is properly regulated and to prevent any unauthorized access to or use of information. However, such controls and security management tools have been established for other users of the JUSTIN environment and could be adapted to ensure that the integrity of the system is maintained.

¹ BC Coroners Service Death Review Panel on Intimate Partner Deaths, 2010-2015.