



Ministry of  
Justice

# **FRAMEWORK FOR DOMESTIC VIOLENCE COURTS IN BRITISH COLUMBIA**

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## **INTRODUCTION**

Domestic violence courts and specialized domestic violence court processes are gaining recognition in Canada and around the world as a promising practice in responding to the issue of domestic violence. In British Columbia, specialized domestic violence court processes have been implemented in a small number of courthouse locations on Vancouver Island and in the Interior.

In February 2013, the Ministry of Justice began to explore the development of a framework for domestic violence courts in the province. As part of this work, research was conducted to examine domestic violence courts, including court processes in Canada, British Columbia and around the world. This research was used to inform the development of the framework. The framework presented here articulates a set of consistent, evidence-based key principles and critical components that specialized domestic violence court processes in British Columbia should strongly consider prior to implementation.

# DOMESTIC VIOLENCE COURTS: A SUMMARY OF THE RESEARCH

Numerous studies acknowledge that domestic violence courts are on the rise following an international trend to implement problem solving courts in response to specific social problems. Currently, there are over 350 domestic violence courts in Canada, Australia, New Zealand, the United Kingdom and the United States. Excluding British Columbia, 9 of the 12 other provincial and territorial jurisdictions in Canada have established domestic violence courts, although Newfoundland and Labrador recently closed its only domestic violence court in St. John’s due to fiscal constraints. In British Columbia there are currently dedicated domestic violence court processes in five different communities.

Three distinct research initiatives helped inform the development of this framework:



## DOMESTIC VIOLENCE COURTS: AN ANNOTATED BIBLIOGRAPHY

The research papers, evaluation studies and reports reviewed as part of the framework’s development were combined into an annotated bibliography and present a range of information about domestic violence courts, including: emerging trends, underlying rationales, current models, common features, impacts and benefits, and considerations for future court development. Below is an overview of some of the major findings of the research.

### Why are domestic violence courts being developed?

Domestic violence constitutes a serious and complex criminal problem that has adverse impacts on families and communities around the world. Important features make domestic violence cases different from many other crimes: the likelihood of repeat violence is high, the abuser is known ahead of time, the victim’s ties with the abuser are complex and typically do not end with intervention, and often, the victim’s fears in proceeding with prosecution result in recantations of the initial report. There is general agreement within the literature that domestic violence cases are unique and, therefore, require a unique response that focuses more closely on the safety and needs of victims while continuing to hold offenders accountable. There is evidence that traditional responses by police, prosecutors and the judiciary, coupled with systemic challenges across the justice system, have resulted in inadequate case management and limited ability to meet the needs of victims in these cases. In addition, victims of domestic violence can face additional barriers when accessing the justice system – such as court delays, re-victimization and safety issues – that specialized domestic violence courts can try to address. Ultimately, the rise of domestic violence courts in the 1990s in Canada stemmed at least in part from the

assertion that the traditional paradigm of the criminal justice system was unable to effectively respond to domestic violence cases. As Jane Ursel, a prominent Canadian researcher notes:

*A primary concern was that the CJS 'is organized around discrete incidents and official investment in incidents is shaped by their legal seriousness and probabilities of conviction... but domestic violence typically involves multiple incidents, sometimes of escalating seriousness, with little physical evidence and few witnesses' (Worden, 2000, p. 233). Second, because of the adversarial nature of the criminal justice process, it is assumed that 'both sides' are committed to winning 'their case' – that is, that the victim has the same interest as the Crown attorney in public conviction, punishment and rehabilitation. However, victims of domestic violence have diverse motivations for seeking CJS intervention (Ford & Regoli, 1993; Ursel, 1998b, 2002). Third, many victims face collateral legal issues such as divorce, custody and child support proceedings. In short, DV cases typically involve a process rather than a discrete incident. They are complex and messy rather than being straightforward evidentiary matters.<sup>1</sup>*

### No “one size fits all” model

The justice system has responded to the challenge of domestic violence court cases in a number of different ways, making it difficult to identify a single model for domestic violence courts. Domestic violence courts lack an agreed upon set of principles that govern court operations and philosophy across sites. The most notable differences between domestic violence courts include:

- **Definition of domestic violence** (i.e. intimate partner violence vs. all forms of family violence)
- **Criteria for inclusion in the court/court process** (e.g. different intake/screening processes, whether or not a guilty plea is required, mandatory vs. voluntary processes)
- **Court emphasis** (i.e. focus on early intervention for low-risk or first time offenders or vigorous prosecution for high-risk or repeat offenders)
- **Scope of law** (e.g. civil/family or criminal or both)
- **Degree of specialization of key justice system partners**
- **Type of judicial review or compliance monitoring of offenders**
- **Range of court processes that are involved** (e.g. some courts deal only with first appearances, while others deal with bail hearings, sentencing for guilty pleas and/or trials)

Despite these differences, the literature highlights that domestic violence courts do share some common foundational approaches and features.

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<sup>1</sup> Ursel (2012). *Chapter 7: Domestic Violence and Problem-Solving Courts*. In Ismaili, Sprott and Varma (eds.) *Canadian Criminal Justice Policy: Contemporary Perspectives*. pp. 160-181.

## Common Approaches and Jurisdictional Scope

A closer look at the literature reveals that while there are many variations between jurisdictions, domestic violence courts are situated within a problem-solving court model and in general have two common underlying approaches: early intervention for low-risk or first time offenders and vigorous prosecution for high-risk or repeat offenders. In some cases these approaches are incorporated into separate courts and in other cases they may be combined in one court. An important aspect in both of these approaches includes a primary focus on breaking the cycle of violence and promoting victim safety.

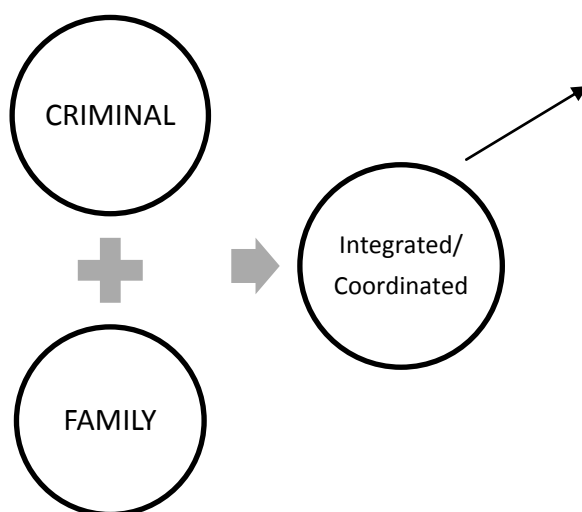
**Early Intervention**  
(Low-risk or First Time Offenders)

- Early Intervention is typically designed for first-time offenders accused of incidents where no serious harm has come to the victim. This is typically a guilty plea model where the accused recognizes that they have a problem, and agrees to take responsibility for their actions and receive immediate treatment (e.g. Yukon Court).

**Vigorous Prosecution**  
(High-risk or Repeat Offenders)

- Under this approach, the accused typically has a history of violence against the victim that is determined to be too serious to be resolved through intervention. In this approach the accused typically pleads not guilty and the prosecution presents available evidence to effectively prosecute the case (e.g. Toronto K Court).

Using either of the above approaches, the model for a domestic violence court may vary in the jurisdictional scope of the court and the specific court processes that are followed. The court may involve designated judges or judges that rotate through the court calendar. In addition, the court may hear family and/or criminal aspects of a case. In the Canadian context, most domestic violence courts have focused on criminal matters. In comparison, courts in New York follow an integrated model, as does the relatively new integrated court in Toronto.



An integrated or coordinated court model attempts to combine criminal domestic violence charges and related family matters. This type of model can address the issues that families face in a more comprehensive manner and allows for “one-stop shopping” for families involved with the justice system. However, the structure of some justice systems, including Canada’s, can pose challenges to creating a court that can jointly handle criminal and family matters.

## Common Features of Effective Domestic Violence Court Models

While the literature speaks to domestic violence courts with varying approaches and models, a shared set of common features can be identified. The table below summarizes the features that appear to be critical components of effective domestic violence courts across jurisdictions.

COMMON FEATURES	DESCRIPTIONS / CHARACTERISTICS
<b>Specialized Staff and Court Time</b>	<ul style="list-style-type: none"> <li>• Designated, specialized staff including prosecutors, judges and court staff</li> <li>• Designated court time where cases are heard at a specific time and place</li> <li>• Leverage the role of the judge to provide judicial leadership</li> <li>• Specialized personnel understand and respect one another's roles</li> </ul>
<b>Coordination and Information Sharing</b>	<ul style="list-style-type: none"> <li>• Partnerships between the justice system and all relevant sectors</li> <li>• Formalized, coordinated response for victims and offenders</li> <li>• Information sharing maximizes potential to protect victims</li> </ul>
<b>Informed, Consistent Judicial Decision-making</b>	<ul style="list-style-type: none"> <li>• Proportionate and balanced sentencing</li> <li>• More informed service by trained professionals</li> <li>• Can reduce information gaps by allowing one judge to gain comprehensive information on a family</li> <li>• Can reduce the possibility of conflicting orders for the same offender</li> </ul>
<b>Offender Accountability</b>	<ul style="list-style-type: none"> <li>• Providing accessible treatment for offenders</li> <li>• Commitment to effective treatment and rehabilitation</li> <li>• Regular, mandatory monitoring of compliance, including completion of court ordered treatment programs and escalating consequences for non-compliance</li> </ul>
<b>Victim Safety, Support and Services</b>	<ul style="list-style-type: none"> <li>• Victim safety is a primary emphasis</li> <li>• A comprehensive approach to safety planning, with specific attention to court safety (e.g. limiting contact with offenders, separate waiting rooms)</li> <li>• Access to relevant support and information (e.g. keeping victims informed and up-to-date on the status of cases, assistance at court)</li> <li>• Providing appropriate resources and referrals</li> <li>• Frontload social services; help victims make immediate links with social service providers</li> <li>• Designated victim advocates that can provide/facilitate immediate safety planning, counselling and access to services</li> </ul>
<b>Increased Efficiency</b>	<ul style="list-style-type: none"> <li>• Expedite cases to ensure timeliness, including quick intake and screening processes</li> <li>• More responsive and efficient case management</li> <li>• Opportunities for creative use of resources</li> </ul>
<b>Training and Education</b>	<ul style="list-style-type: none"> <li>• Intensive training for all professionals involved in domestic violence cases including the judiciary</li> <li>• Increased awareness of domestic violence</li> <li>• Covers operational and legal matters, as well as the impacts of domestic violence on women and children</li> </ul>
<b>Evaluation</b>	<ul style="list-style-type: none"> <li>• Formalized monitoring and evaluation to examine effectiveness and identify areas for improvement or change</li> </ul>

## Evaluation and Performance Measurement

The identification of key performance measures and the active collection, analysis and reporting of data is considered crucial to evaluating the ongoing effectiveness of domestic violence courts and encouraging continuous quality improvement. While criminal justice performance measures typically focus on arrests, prosecutions and convictions, they do not necessarily measure outcomes related to victims. Although the literature does not identify a standard set of performance measures for evaluating specialized domestic violence court processes, those performance measures that are highlighted are closely tied to victims and offender accountability. For example, common performance measures or indicators highlighted in the literature include:

- Level of awareness of domestic violence across justice system and key stakeholders
- Raised awareness of offenders and victims that action will be taken if a domestic violence offence is reported to police
- Increased rate of reporting of domestic violence offences
- Increased victim participation in court process
- Increased rate of guilty pleas and convictions for domestic violence offences
- Decreased rate of withdrawal of charges
- Efficient use of resources
- Higher level of safety planning for victims of domestic violence and their children
- More appropriate protection orders, tailored to victims' circumstances
- Increased interagency co-operation and co-ordination
- Reduction and prevention of further domestic violence
- Victim satisfaction with the court process
- Offender recidivism rates
- Offender participation in treatment programming
- Timeliness of case resolution

## Benefits and Impacts

Although there are limited evaluative results about the outcomes of domestic violence courts, there is some evidence to suggest that domestic violence courts have experienced successes. The major impacts are outlined below. It is important to keep in mind that levels and models of specialization in the different courts means that the degree to which courts experience these impacts varies from one jurisdiction to the next.



- More efficient (less backlog, timelier decisions)
- Increased conviction rates
- Increased willingness from victims to testify
- Higher levels of victim satisfaction, particularly with an approach of early intervention
- Greater effort to use alternate forms of evidence (e.g. KGB statements)
- Better supports for victims



- Overall drop in recidivism
- Lower levels of dismissal or withdrawn charges
- Reduction in time between filing of a charge and both first appearance and final disposition



## Challenges

Although less prevalent, the research points to some challenges that jurisdictions have faced in the process of establishing domestic violence courts. In many cases, jurisdictions have worked hard to find innovative solutions to overcome these challenges.

- ***Jurisdictional Scope*** - In Canada, the studies reviewed point to the challenges presented by the structure of the Canadian justice system and its impact on creating a court that could jointly handle criminal and family matters.
- ***Rural/Remote Communities*** – Establishing specialized courts in remote or rural areas may be challenging due to low case volume and the absence of victim supports and services.
- ***Access and Underutilization*** – There have been some reports that domestic violence courts have been underutilized, particularly by marginalized groups who may face more barriers when accessing the justice system.
- ***Buy-in*** – Another common challenge within the literature is the issue of creating buy-in and mitigating resistance from key players.
- ***Theoretical Critiques*** – Specialized domestic violence courts have been criticized for focusing too much on efficiency at the expense of positive social change.
- ***Limited Evaluation/Research*** – While growing, the body of evidence-based evaluation/research on domestic violence courts remains limited at this time.

### Allocation of Resources and Costs

Relevant research and first-hand experience has shown that finding the necessary resources (both funding and personnel) can be challenging for establishing a specialized domestic violence court. Unfortunately, not a lot has been published on the costs of specialized domestic violence court processes. The only figures available from Canada are from the Yukon, where the cost of the domestic violence treatment option court per case was compared to the cost of a trial for one day. In the Yukon, the unit cost per case in the domestic violence treatment option court was estimated at \$1,630, which compared positively to the one day trial cost estimate of \$1,964. It should be noted that the unit cost for the domestic violence treatment option court excluded the costs of their spousal assault program (SAP), which is their therapeutic treatment program. The average unit cost per case for SAP was estimated at an additional \$1,552.

## A SUMMARY OF PROVINCIAL AND TERRITORIAL DOMESTIC VIOLENCE COURTS IN CANADA: DIFFERENT SOLUTIONS TO SHARED CHALLENGES

A large part of the research undertaken for the framework focused on domestic violence courts in Canada. As part of the project, provincial and territorial colleagues were surveyed to get an understanding of the scope of domestic violence courts in Canada as well as a sense of the structure, resources and evaluations undertaken to date on these specialized court processes.

Excluding British Columbia, 9 of the 12 other provincial and territorial jurisdictions in Canada have established domestic violence courts, although Newfoundland and Labrador recently closed its only domestic violence court in St. John's due to fiscal constraints. There are no domestic violence courts in Quebec, Prince Edward Island or Nunavut. Dedicated family or domestic violence courts or court processes have been established in the following Canadian jurisdictions (listed west to east):

Jurisdiction	Year Established	Location(s)
<b>Yukon</b>	2000	Whitehorse and Watson Lake
<b>Alberta</b>	2000	Calgary, Edmonton, Lethbridge, Red Deer, Grand Prairie, For McMurray, Airdrie and Medicine Hat
<b>Saskatchewan</b>	2003	Regina, Saskatoon and North Battleford
<b>Manitoba</b>	1990	Winnipeg
<b>Ontario</b>	1997	54 courthouses across Ontario and an integrated criminal/family court in Toronto
<b>New Brunswick</b>	2007	Moncton
<b>Nova Scotia</b>	2012	Cape Breton Regional Municipality (Sydney)
<b>Newfoundland and Labrador</b>	2009; closed in 2013	St. John's
<b>Northwest Territories</b>	2011	Yellowknife

Information provided by provincial and territorial colleagues indicates there are several distinct models of domestic violence courts in operation across the country, each having unique processes and procedures. Despite this fact, there is a general consensus around the goals of such courts, including enhanced victim safety/support, offender accountability and early intervention/timeliness of the court process. In addition, the majority of courts include specialized programs to support offenders and victims and rely on a high level of coordination between justice system partners.

Of the jurisdictions surveyed, all have undertaken or are in the process of undertaking some type of formal evaluation of their domestic violence court programs. However, with the exception of the Yukon, none of the jurisdictions reported that they had undertaken a specific analysis of the cost of domestic violence courts/court processes.

The table below provides a brief description of some of the major court models in operation in Canada.

Jurisdiction	Key Elements
Winnipeg	<ul style="list-style-type: none"> <li>The <i>Winnipeg Family Violence Court</i> handles domestic violence cases as well as other family violence cases. It includes specialized Crown as well as specialized judges and victim service support. There are several courtrooms including one courtroom for bail hearings, several to hear guilty pleas, two trial courts for DV matters and one child-friendly courtroom for child abuse cases. All told, it sits for approx. 60 hours of court time a week. The specialized court handles all matters from first appearance through trial. It has a diversion program for low-risk, first-time offenders which utilizes a treatment program and relies on victim consent. However, it does retain the ability to proceed with prosecution if the accused does not complete treatment.</li> </ul>
Yukon	<ul style="list-style-type: none"> <li>The <i>Yukon Domestic Violence Treatment Option (DVTO)</i> court provides defendants charged with DV related crime the option to apply to have their case processed in the DVTO rather than the traditional justice system. Defendants are required to plead guilty to charges after which they complete a specialized treatment program. There is a high level of judicial review throughout the process and once the treatment program is complete, the individual is sentenced. Successful completion of the program results in a reduced sentence. With certain adaptations surrounding first appearance and specific court processes and resources, the Yukon model has been adopted in the Northwest Territories, Nova Scotia, and Newfoundland and Labrador.</li> </ul>
Ontario	<ul style="list-style-type: none"> <li>Ontario has <i>DV court processes</i> in 54 courthouse locations. Each Ontario DV court has teams of specialized personnel, including police, Crown attorneys, Victim/Witness Assistance Program (VWAP) staff, probation services, Partner Assault Response (PAR) program staff and community agencies, that work together to ensure priority is given to the safety and needs of domestic assault victims and their children. Ontario courts have two distinct streams: an early intervention stream which emphasizes treatment for low-risk first time offenders with no prior convictions for domestic violence as well as a vigorous prosecution stream which emphasizes the gathering of solid evidence to support a vigorous prosecution. For the low-risk stream, a guilty plea must be entered, followed by treatment with a 16 week community-based PAR program, which informs sentencing. Crown usually recommends a conditional discharge if the program is successfully completed. The vigorous prosecution stream relies heavily on victim assistance as well as the use of videotaped statements to ensure victim engagement in prosecution.</li> </ul>
Calgary	<ul style="list-style-type: none"> <li>Calgary has both a first appearance court and a trial court. The <i>first appearance court (Homefront)</i> handles everything up to a trial, including bail hearings, acceptance of pleas and sentencing. The first appearance court is unique in that low-risk accused can have their charges withdrawn with a peace bond if they acknowledge responsibility for their behaviour and are willing to participate in a court-mandated counselling and treatment program. The first appearance court has a specialized team which includes members of the Calgary Police Department's Domestic Conflict Unit and domestic court caseworkers from Homefront, the non-profit agency that supports the court process.</li> </ul>

## A SUMMARY OF DOMESTIC VIOLENCE COURT INITIATIVES IN BRITISH COLUMBIA

In recent years, specialized domestic violence court processes have been implemented in a small number of court locations in British Columbia. In the absence of a formal government position, the judiciary and local justice system participants have taken upon themselves the exploration of such specialized court processes. There are currently three distinct specialized domestic violence court processes in five communities in the province:

### 1. *Duncan*

This court process was implemented in 2009 as a judge led initiative. It takes a collaborative and therapeutic approach by bringing together the services of a number of community and government agencies. The goals are to stop violence in relationships and keep families safe. An important component of this initiative has been the improved coordination of information and services so that the judge, Crown Counsel, defence counsel and others can have a fuller understanding about the victim and accused which is believed to result in more informed decision making. Representatives from government and community organizations attend the court to provide assistance to the court and the parties.

The court deals with all domestic violence offences, except the most serious offences, as well as section 810 applications. The court sits on a designated date once a week with first appearances, fix dates/arraignment hearings, bail hearings, bail review applications, and dispositions and shorter trials being scheduled in the court. On average there are approximately 40 to 45 files scheduled for each court date including between 2 and 4 trials.

There are specific processes that have been established including: 1) requiring accused persons to make in-person appearances unless approved by the court; 2) introducing the representatives from the various government and community organizations at the beginning of each court session so that the parties in the courtroom are aware of the resources that may be available at the courthouse; 3) limited number of adjournments before arraignment; and 4) the victim, victim services, and MCFD if they are involved with the family, are generally required to attend bail review hearings. There is one Crown Counsel who maintains file ownership of the majority of the files from charge assessment to arraignment. There is one assigned judge who sits in the court.

Staff members from the following organizations participate in this initiative: North Cowichan RCMP, Criminal Justice Branch, Corrections Branch, Ministry of Children and Family Development, Legal Services Society, Cowichan Women Against Violence, community and police-based victim services, Native Court Worker and Counselling Association of BC. Benefits noted include more informed and consistent court orders to manage offenders as well as engagement and access to community services for victims.

### 2. *Nanaimo*

The Nanaimo court process was established in January 2013 through the collaborative effort of the Community Coordination for Domestic Safety Committee ("CCDS", which includes representation from government agencies and community service providers). The goals established by CCDS for this initiative are to: 1) promote the prevention and reduction of

domestic violence; 2) promote collaboration of specialized resources to improve safety and services for victims and offenders; 3) improve the response of the criminal justice system to victim needs and safety planning through connections with community resources; 4) to offer therapeutic and culturally appropriate sentencing options to offenders to encourage early acceptance of responsibility and improved accountability; 5) to support families who have experienced violence in their relationship but wish to remain intact; and 6) provide these responses in an integrated courtroom setting which promotes timely and appropriate responses to domestic violence files. Representatives from government and community organizations attend to provide assistance to the court and the parties.

The court deals with all domestic violence offences, except the most serious offences, as well as section 810 applications. The court sits on a designated date once every two weeks with first appearances, fix dates/arraignment hearings, bail hearings, bail review applications, and dispositions and shorter trials being scheduled in the court. On average there are approximately 50 to 60 files scheduled for each court date including usually a maximum of 2 trials.

Cases may be adjourned in the court for longer periods to facilitate the engagement of victims and accused persons with service providers. The concerted effort of counsel and service providers prior to court is believed to allow for court appearances to proceed more efficiently. Unlike in Duncan, there is no requirement for accused persons to appear in court in person. There is one Crown Counsel who maintains file ownership of the majority of the files from charge assessment to file conclusion. Unlike in Duncan, there is no designated judge.

The following organizations are involved in the initiative: Judiciary, Criminal Justice Branch, Court Services Branch, Corrections Branch, Ministry of Children and Family Development, Legal Services Society, RCMP, Haven Society (community based victim services), police-based victim services, Native Court Worker and Counselling Association of BC, Men's Resource Centre, family lawyer with the Justice Access Centre, Immigrant Welcome Centre, and Family Life Association (counsellor).

Benefits noted are the same as those in the Duncan model regarding more informed and consistent court orders to manage offenders as well as engagement and access to community services for victims.

### *3. Interior: Kelowna, Penticton and Kamloops*

The establishment of domestic violence docket court processes in the Interior in 2013 was an initiative led by the Administrative Judge in Kelowna. The docket court processes were created by a Provincial Court Practice Direction.

The court processes are primarily designed to increase efficiency and address the backlog of cases through case management of domestic violence cases that have a high level of trial uncertainty so that resources in other courts can be used for cases with high trial certainty.

The Practice Direction sets out the types of cases to be scheduled in the docket courts and provides specific court management and scheduling requirements. Generally the cases scheduled in docket courts are limited to lower level domestic violence offences. Cases can

only be scheduled in the docket courts for trials or continuation dates unless ordered otherwise by the court. A maximum of eight files can be scheduled per docket, and only one Crown witness is required for each case for the initial trial date, unless otherwise set by the court.

The Administrative Judge generally sits in the Kelowna docket court and different judges rotate through the docket courts in Kamloops and Penticton. In all three courts there is some effort to promote continuity of Crown Counsel assigned to the docket court.

When examined together, it is evident that approaches to domestic violence court processes vary from community to community. While the Duncan and Nanaimo initiatives can be compared somewhat to the more comprehensive specialized courts found elsewhere in Canada (although there are clear and significant distinctions between the two initiatives), the Kelowna, Kamloops and Penticton court processes appear to be more focused on expediting the court process, which may allow for timelier offender supervision and, through that, access to programming.

While it is understandable that domestic violence court processes established in BC will look and operate somewhat differently depending on the communities they are developed in, there is a need to have a discussion about the common principles underlying these courts, their rationale for implementation and their components and processes.

## **DOMESTIC VIOLENCE COURTS IN BRITISH COLUMBIA: WHERE TO FROM HERE?**

British Columbia's broader justice system response to the issue of domestic violence has improved over the last few years with innovative practices, programs and services. However, there remain strong calls from advocates, community-based organizations, and justice system participants to change the way the justice system responds to this critical issue. As Cowper acknowledges in his report on the state of BC's justice system, "Although all stakeholders on this issue are dissatisfied, they are each dissatisfied in their own way."<sup>2</sup>

Specialized domestic violence court processes are now a reality in British Columbia and merit thoughtful consideration. There is support from prominent institutional and community stakeholders for exploring the further development of specialized domestic violence court processes in the province. Both the RCY and the Cowper report suggest that specialized court processes should be considered. Moreover, there is growing support from community-based victim serving organizations. In 2008, a community-based report entitled *Keeping Women Safe: Eight Critical Components of an Effective Justice Response to Domestic Violence*, suggested that the province should consider establishing domestic violence courts. More recently, in November 2012, the Pivot Legal Society issued a report, endorsed by several major service providers in Vancouver, offering support to a specialized domestic violence court in Vancouver, with some caveats (namely, a high level of community involvement and appropriate services and supports for victims and offenders).

Overall, it appears that interest in specialized domestic violence court processes will remain strong in the near future. In Surrey, the Network to Eliminate Violence in Relationships (NEVR) organized a conference in February 2014 to discuss the establishment of a specialized domestic violence court in the city of Surrey. In addition, there continues to be interest in other regions of the province, including in the Bulkley Valley Lakes District (Smithers) area.

### **FRAMEWORK FOR DOMESTIC VIOLENCE COURTS IN BRITISH COLUMBIA**

In acknowledgement of the current provincial context and relatively strong interest in implementing domestic violence court processes in the province, the Ministry has developed this framework for domestic violence courts that builds on the research that was conducted as part of the project. The framework seeks to articulate a set of consistent, evidence-based key principles and critical components that specialized domestic violence court processes in British Columbia should strongly consider prior to implementation. The framework does not recommend a specific model of domestic violence court, but rather is intended to provide guidance to local initiatives seeking to establish innovative court practices in a way that is responsive to promising practices identified elsewhere in the world.

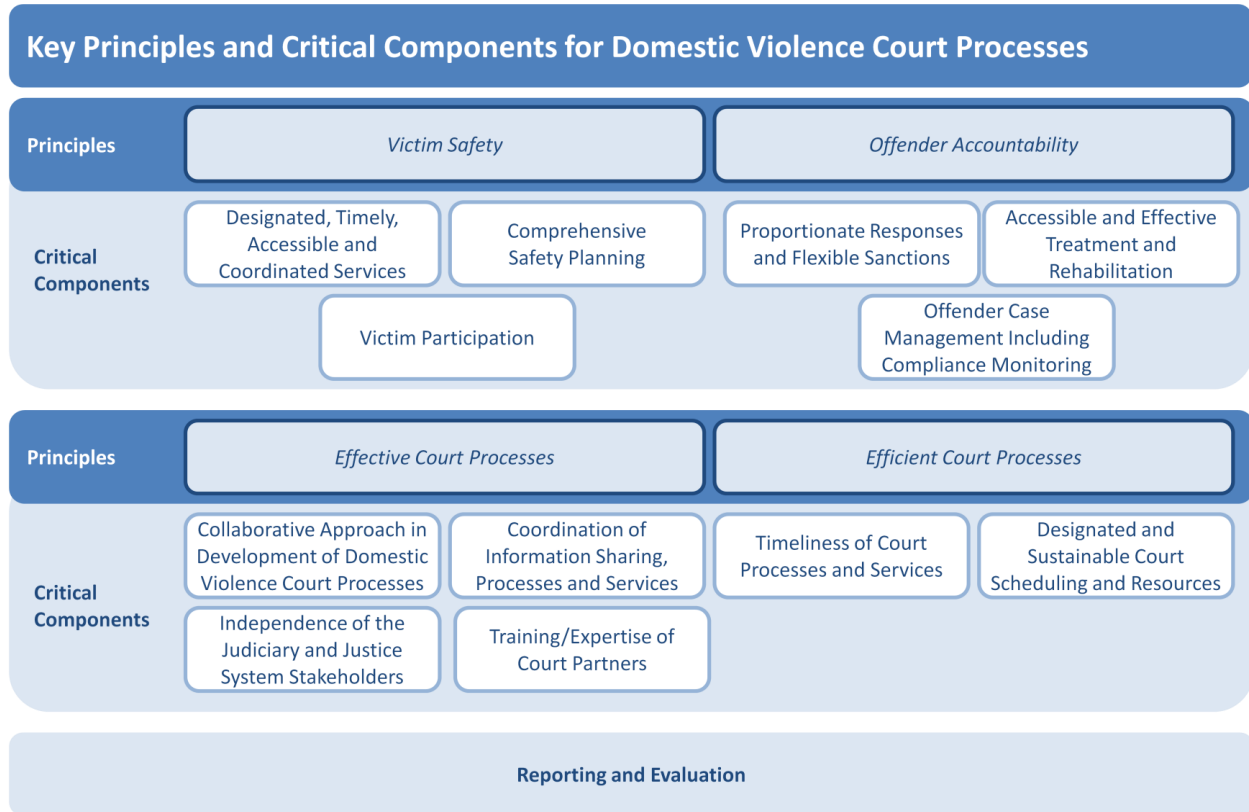
While there are potential resource implications for fully implementing all of the framework components, it may be possible for local court initiatives to embrace these principles in a resource efficient manner that minimizes the need for new funding. Evidence from Duncan, Nanaimo and other jurisdictions suggests it is possible to implement local processes that harness existing resources in new and innovative ways to affect positive change. Below is a graphic of the framework as well as descriptions of

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<sup>2</sup> Cowper (2012). BC Justice Reform Initiative. *A Justice System for the 21<sup>st</sup> Century*. pg. 145.

the key principles and critical components. An appendix at the end of the report includes the graphic as a one-page pull out.

**Graphic: Framework for Domestic Violence Courts in British Columbia**



**KEY PRINCIPLES AND CRITICAL COMPONENTS**

**Victim Safety**

A key principle of domestic violence court processes is an overarching/foundational focus on victim safety. Specialized court processes recognize that domestic violence cases have unique dynamics that present challenges for traditional justice system processes/responses. Research and stakeholder input suggests that there are several critical components related to victim safety that should be at the forefront when considering the establishment of domestic violence court processes.

**a. Designated, Timely, Accessible and Coordinated Services**

The dynamics of domestic violence including the unique power dynamics and victim’s fears in participating in the prosecution can make court intimidating, often resulting in recantations of the initial report. In these situations, designated, timely, accessible and coordinated services can encourage a victim to remain safely engaged in the criminal justice system process. This requires having processes in place that provide victims with access to information on the status of their case in a timely manner, appropriate referrals to relevant support services, and links



with dedicated victim advocates that can provide/facilitate immediate safety planning, emotional support and access to services.

**b. Comprehensive Safety Planning**

A critical component of domestic violence court processes is the provision of fulsome safety planning. This extends to safety planning both within the courthouse (e.g. limiting contact with offenders, utilizing separate waiting rooms where possible, etc.) and in the broader community. Safety planning is critical to ensure the ongoing safety of victims and their children.

**c. Victim Participation**

In British Columbia, the *Victims of Crime Act* gives victims certain rights, including obtaining information about services and benefits available to them, information about the status of the police investigation and court case, as well as having a reasonable opportunity to have the impact of the offence brought to the attention of the court. A key component of specialized domestic violence court processes is an opportunity for victims to engage in the court process in a way that they feel safe and supported.

**Offender Accountability**

Another principle of domestic violence court processes is offender accountability. Domestic violence courts primarily operate on the basis that domestic violence is learned behaviour that can be changed and that offenders need to take responsibility for their actions while being supported to make these changes. Correctional research has shown that the best way to reduce re-offending is to utilize the principles of risk, needs and responsivity (RNR) to ensure the right intervention is matched to the right person, in the most appropriate and timely manner. The greatest results in recidivism reductions are when interventions are applied to individuals with medium and high levels of risk for re-offending. Numerous studies show that the level, intensity and type of intervention should be proportional to risk level to facilitate successful behavioural change (Andrews & Bonta, 2010). Current practices ensure that there are serious and predictable consequences for breaching the terms of conditions.

**a. Proportionate Response and Flexible Sanctions**

Domestic violence courts typically deal with first time and/or low risk offenders differently than those who are repeat and/or higher risk offenders. A response that is proportionate to the actions and risk posed by the accused is a key component of domestic violence court processes. The development of domestic violence court processes should include consideration of practices and procedures that are evidence based and will facilitate meaningful sanctions to reinforce a commitment to victim safety and offender accountability. Consideration should also be given to ensure that processes are in place, such as access to programming, which will provide decisions makers, including the judiciary, information to inform their decision making in individual cases.

**b. Accessible and Effective Treatment and Rehabilitation**

Domestic violence courts take into consideration the treatment and rehabilitation of offenders as a key step in breaking the cycle of violence. Consistent with existing treatment programs delivered by BC Corrections that have been proven to reduce re-offending, treatment should be accessible, evidence-based and provide consideration of the dynamics of domestic violence. Early access to treatment is also important, as it can capitalize on offender motivation and allow for more immediate response.

**c. Offender Case Management including Compliance Monitoring**

Consistent with the BC Corrections approach to case management, consideration should be given to processes to ensure comprehensive assessment, case planning and supervision to manage the offender in the community. Corrections policy directs that breaches of protective conditions are referred to Crown or Police in a timely manner to pursue action and to ensure that the victim is notified. These policies ensure that there are serious and predictable consequences for breaching the terms of their conditions.

**Effective Court Processes**

Effectiveness is closely tied to the working relationship between the justice system stakeholders involved and the level of training and expertise they hold.

**a. Collaborative Approach in Development of Domestic Violence Court Processes**

A collaborative approach which includes the engagement and involvement of all relevant justice system stakeholders should be adopted in the early stages in the creation and development of any domestic violence court process.

**b. Coordination of Information Sharing, Processes and Services**

A critical component of domestic violence courts is a heightened level of coordination among the justice system stakeholders, including the police, prosecution, probation, victim service agencies, defence counsel, and the judiciary. Coordination can improve communication and information sharing to support risk assessment and safety planning as well as to facilitate the effective functioning of court processes and services offered to victims and accused persons/offenders. Formalized, regular meeting of justice system stakeholders can help ensure a more comprehensive and coordinated response to these cases. When justice system stakeholders work together and develop a shared understanding of one another's roles and expertise, domestic violence court process are better able to maximize safety for families.

**c. Independence of the Judiciary and Justice System Stakeholders**

The independence of the judiciary and justice system stakeholders such as Crown Counsel and the police, which is constitutionally protected, and their unique roles in responding to individual cases, must be considered and respected in the development of domestic violence court processes.

#### **d. Training/Expertise of Court Partners**

Informed decision making by all those involved is a critical component of domestic violence courts. This extends from the judiciary down through to community service providers. Parties involved in specialized domestic violence court processes typically have a higher level of understanding of the unique dynamics of domestic violence cases and are better able to provide support and services that keep victims and children safe, and offenders accountable.

### **Efficient Court Processes**

Efficient court processes are also a key principle to be considered when domestic violence court processes are being established. Typically, specialized court processes will include having designated court scheduling for domestic violence cases to be heard in the same courtroom and strengthened case management processes to decrease the likelihood of delays.

#### **a. Timeliness of Court Processes and Services**

Processes that allow justice system stakeholders to identify and respond to domestic violence cases in a timely fashion is a critical component of domestic violence court processes. Both offenders and victims should have access to programs and services as soon as possible to ensure they are engaged in the process and to capitalize on offender motivation to change. When victims receive assistance early and understand the court process, they are much more likely to remain engaged in a case.

#### **b. Designated and Sustainable Court Scheduling and Resources**

Designated court scheduling and resources foster greater expertise and more efficient handling of cases through tailored court processes.

### **Reporting and Evaluation**

While not a key principle, the regular collection, analysis and reporting on outcomes and processes is critical to continually improving the overall functioning of any domestic violence court process. Both informal, ad-hoc monitoring as well as formal, comprehensive evaluation are important. The identification and use of performance measures is also a best practice in specialized domestic violence courts. Where possible, external evaluations provide a comprehensive examination of the effectiveness of specialized domestic violence courts in meeting their objectives of enhancing victim safety, holding offenders accountable, and ensuring that court processes are effective and efficient. This could also include looking at the cost-effectiveness of domestic violence courts as well as their resource efficiency. Monitoring and evaluation are particularly important for initiatives that include innovative practices and new approaches.

## CONCLUSION

Domestic violence courts and specialized court processes are recognized in Canada and around the world as a promising practice in addressing the issue of domestic violence. In recent years, the RCY has made two sets of specific recommendations pertaining to the formal establishment of such courts in British Columbia. During this time, a small number of courthouses across the province have begun to implement domestic violence court processes that vary significantly in their approaches and goals.

In developing this framework, research was conducted on domestic violence court initiatives in Canada, the United States and around the world. The ultimate goal of this work has been to develop a framework that articulates a set of consistent, evidence-based key principles and critical components that specialized domestic violence court processes in British Columbia should strongly consider prior to implementation.

While it is recognized that domestic violence court processes are but one option among an array of options for enhancing the justice system response to the issue of domestic violence, it is anticipated that interest at the community-level in establishing specialized domestic violence courts will continue. This framework for domestic violence courts may provide guidance to those seeking to develop such court processes in British Columbia and encourage the consideration of promising practices from other jurisdictions that have implemented such initiatives.

# FRAMEWORK FOR DOMESTIC VIOLENCE COURTS IN BRITISH COLUMBIA

