BEST PRACTICES REVIEW
JULY, 2003

PREPARED AS PART OF THE HOMEFRONT EVALUATION CONDUCTED BY SYNERGY RESEARCH GROUP

WRITTEN BY MICHELLE CLARKE

BEST PRACTICES REVIEW

SECTION ONE: INTRODUCTION

The Best Practices chapter of the HomeFront evaluation is intended to give the reader a broad overview of current academic thinking in areas relevant to the HomeFront project. These include specialized courts, advocacy services, law enforcement, prosecution, probation, treatment, and coordinated community responses. The best practices literature identifies and debates a number of issues which have emerged as academics, researchers and community practitioners have grappled with the implementation of complex domestic violence projects such as HomeFront. Eventually, this best practices work will be incorporated into the final evaluation report, which will include discussions of HomeFront outputs, outcomes, successes and challenges. It is hoped that the discussions, debates and conclusions highlighted in the Best Practices Review will provide a useful framework in which to study the evaluation results.

This is the second draft of the Best Practices Review. With the exception of the final section on coordinated community responses, the evaluation committee has reviewed earlier versions of all sections. In addition, Madame Justice Beth Hughes reviewed all sections except the one on coordinated community responses. Peter Davison and Monty Sparrow of Calgary Police Services reviewed the law enforcement and prosecution sections. The comments of all reviewers have been incorporated into this draft.

The Best Practices Review is divided into ten sections: this introduction; a description of the HomeFront project, in order to contextualize the sections which follow; a review of the literature pertaining to the seven major HomeFront components (specialized courts, advocacy services, law enforcement, prosecution, probation, treatment, and coordinated community responses); and a conclusion.

SECTION TWO: THE HOMEFRONT PROJECT

HomeFront is a collaborative community project which brings together social service agencies, law enforcement and the criminal justice system for the purpose of providing an immediate, seamless response to those involved in domestic violence.

A specialized Domestic Violence First Appearance Court is at the centre of the HomeFront Project. That Court and its attendant services are the focus of the Best Practices Review and are therefore described in this section. Other aspects of HomeFront, such as its involvement in a broad range of community initiatives, will be discussed in other sections of the evaluation report.

Many of the services described below were in existence prior to the implementation of HomeFront and were linked to the Project once it began, e.g. the Domestic Conflict Unit, the partner support coordinator, Calgary Legal Guidance. Others, such as the first appearance court, specialized probation and prosecution services and the Domestic Court Case Workers, were created as part of this Project.

Specialized Domestic Violence First Appearance Court

Every effort is made to ensure that all cases of domestic violence in Calgary appear first in this Court. The Court uses a team of experts (specialized Crown Prosecutors, Domestic Conflict Unit Police Officers, Probation Officers, Legal Aid Duty Counsel and Domestic Court Case Workers) in an effort to ensure appropriate and efficient responses to domestic violence incidents. The pre-court conference, in which all team members review each case with defence counsel prior to its appearance before the Court, is an important part of the Court process. The pre-court conference focuses on inter-agency and inter-sectoral collaboration, open information exchange and early case resolution designed to assist all family members. In appropriate cases, treatment-focused sentences or dispositions are strongly considered by the Court. The specialized Court is for first appearance matters only; there is no specialized domestic violence trial court.

Domestic Court Case Workers (DCCW)

DCCWs provide support to the victims of domestic violence from the time their case appears on the docket for the specialized Court until it moves out of that Court. The Case Workers assist victims through the criminal justice system by helping them to understand the court process, ensuring that they have the opportunity to provide information to the Crown Prosecutor, identifying how information can be accessed regarding the status of the offender, assisting with assessing risk as it relates to planning for safety, communicating information on the outcome of an offender's Court appearance and providing referrals to community resources as required. DCCWs are expected to attend Court and be prepared to respond to questions from the Judge. When the victim chooses to attend Court, the Case Workers ensure that the victim is offered accompaniment.

When HomeFront began, the DCCWs were called Victim Advocates but their titles were changed for several reasons. As the project evolved, it became clear that these staff people were doing "case work" as opposed to "court work." That is, they were providing a wide range of supports and assistance to victims, moving beyond a focus on court-based issues and pure advocacy. As will be discussed in the advocacy section of the Best Practices Review, this is consistent with the Canadian understanding of advocacy as a broad response to victim needs. The name change was also made in response to defence lawyers' concerns that the term "victim" implied a presumption of guilt and that the workers were not legal advocates.

Originally housed at the HomeFront offices, DCCWs are now located at the Domestic Conflict Unit of the Calgary Police Services. This move was premised on the belief that a closer working relationship with the police would facilitate earlier access to victims.

Police Services

The role of the Calgary Police Service (CPS) is to ensure that the Crown has access to a complete and thorough investigation. As well, officers from the Domestic Conflict Unit (DCU) provide information to the Probation Officer and the Domestic Court Case Workers, including case synopsis, information on risk factors, details of other court orders and history of police involvement. They also conduct risk assessments on the majority of domestic offences reported to the CPS.

The Calgary Police Service operates under a pro-charge policy in domestic violence cases. That is, if officers are called to a domestic violence incident, and there are reasonable and probable grounds to believe that a Criminal Code offence has been committed, they must lay charges. The Calgary Police Service, along with many other Alberta jurisdictions, is working on primary aggressor policies which will provide police officers with guidelines on the appropriate action to take when both parties are alleging that the other was violent. Calgary police officers currently have the discretion to arrest just one person in a domestic violence incident, even if both show signs of injury. Such action can only be taken after a full investigation determines that one party has inflicted injuries while defending themselves.

The Victim Assistance Unit (VAU) of CPS attempts to contact all victims of domestic violence as soon as possible after a police report is filed. Programs available through the VAU include: 24-hour victim assistance support teams, help with victim impact statements and restitution requests, and court accompaniment. As well, VAU refers to a wide variety of community programs and services for victims.

Both DCU and VAU were in operation before the HomeFront Project began.

Crown Prosecutors' Office

Two specialized Crown Prosecutors work in the Domestic Violence Court. The decision to proceed with prosecution lies with those prosecutors, and is based upon whether or not there is sufficient evidence. The victim cannot withdraw charges.

The specialized Crown Prosecutors conduct bail hearings and communicate identified risk factors to the Court, verbally present information obtained during the pre-court conference to the Court with appropriate release and/or sentencing recommendations, act as resource persons for other Crown Prosecutors who have been assigned to prosecute the case at trial and review files for trial readiness.

The specialized Crown Prosecutors are expected to make every effort not to allow breaches of court orders to be continually remanded. Whenever possible, the Crown Prosecutor consults with the Probation Officer, the DCU and the DCCW prior to consideration of withdrawing no contact orders.

Judges

Judges in the Domestic Violence Court take on all of the traditional roles and responsibilities of the judiciary. That is, they adjudicate cases, make bail and procedural decisions and determine appropriate sentences and condition.

When the Domestic Violence Court was first implemented, specialized judges were assigned to the court. The Court later moved to a system of rotating judges. This decision was made for several reasons, including scheduling issues, interest by other judges in the Court and the desire to avoid any possible appearance of judicial bias.

Probation

Probation Officers are key players in ensuring that information flows between the Court and the community. The Probation Officer located in the specialized Domestic Violence Court monitors whether any of the cases before the Court are already involved with the legal system (e.g. bail, probation, etc.) and may be called upon to provide a verbal summary on each offender currently under supervision to the Court. In cases where there is a guilty plea, the Probation Officer may be required to complete a pre-sentence report. After sentencing, the Domestic Court Probation Officer reviews the order with the offender, instructs the offender about getting in touch with his/her supervising Probation Officer, matches the offender with appropriate treatment options, completes a written referral to the appropriate treatment agency and forwards information on the offender to the supervising Probation Officer. All domestic violence cases are sent to one specialized probation office.

The offender is required to establish telephone contact with treatment within two working days and have a scheduled appointment within five working days. Offenders who miss

two consecutive appointments at the designated treatment agency are breached unless there are mitigating circumstances.

If the offender reappears in Court for a breach of a domestic violence court order, the Probation Officer in the Domestic Violence Court initiates contact with the Crown Prosecutor, DCCWs and the offender's Probation Officer, tracks the progress of the breach and provides the information necessary for prosecution. To the degree possible, all domestic violence breaches make their first appearance in the dedicated Domestic Violence Court.

The supervising Probation Officer endeavours to ensure that the victim and appropriate agencies working with the victim or offender have been notified of risks identified by the treatment agency.

Partner Support Coordinator

The Partner Support Coordinator strives to increase the safety of victims while the offender is involved with the Alberta Solicitor General. The supervising Probation Officer sends referral information to the Partner Support Coordinator within two working days of involvement with the offender. The Coordinator is then responsible to maintain contact with the victim and/or new partner for the duration of the supervision, with the permission of the victim. Volunteers are used to assist with this work. When the Partner Support Coordinator/volunteer identifies an escalating risk of violence, both the victim and the supervising Probation Officer are notified. This program and position were in existence prior to the HomeFront implementation.

Treatment

Four agencies provide therapeutic batterer treatment services to offenders mandated by the specialized Domestic Violence Court. Forensic Assessment and Outpatient Services (FAOS), which is a provincially funded and mandated organization, is reserved for the more dangerous offenders and those with diagnosed mental health disorders. Three community-based agencies provide a combination of group and individual counseling, depending on the agency. Although their approaches are not identical, the agencies all focus on power and control issues, healthy conflict resolution and the cessation of violent behaviour. Partner checks to monitor victim safety are also part of the programs. All four organizations provided these treatment services prior to the beginning of HomeFront.

The treatment agencies advise the Chief Probation Officer, through their assigned probation officer, of any offender who fails to make contact or schedule an appointment within a week of their referral or fails to make the first two appointments or who misses two scheduled appointments in a row. The treatment agencies also provide a short written report to the Chief Probation Officer on each offender each month, noting appointment dates attended/missed. The supervising Probation Officer is notified by treatment agencies when escalating risk factors are identified.

Calgary Legal Guidance

Calgary Legal Guidance (CLG) is a community agency which provides legal services, advocacy, safety planning, court preparation assistance and help with obtaining restraining orders to victims of domestic violence. The DCCWs refer victims who need legal services and advocacy to CLG. CLG was also in existence and providing such services prior to the establishment of HomeFront.

SECTION THREE: SPECIALIZED DOMESTIC VIOLENCE COURTS

Introduction

Literature on domestic violence courts, once sparse, is now becoming more common. Although actual empirical evidence is still in short supply, academics and researchers are beginning to reflect on the importance of the courts, their advantages and disadvantages, and the ideal components. This section reviews such work. It is divided into seven sub-sections: critiques of traditional legal approaches; problem-solving courts; examples of specialized domestic violence courts; evaluations of specialized domestic violence courts; challenges and criticisms; best practices; and a conclusion.

Critiques of Traditional Legal Approaches

A wide range of concerns about the treatment of domestic violence cases in the Canadian and American courts surfaced in the late 1980s and 1990s. American research indicates that for many years there was little legal response to domestic violence. Male batterers were rarely arrested, prosecuted or sentenced as severely as other violent offenders. And when the system did get involved, it often failed to afford real protection to victims. (Roberts and Kurst-Swanger, 2002, U.S.; Berman and Feinblatt, 2002, U.S.; Tsai, 2000, U.S.; Lederman and Malik, 1999, U.S.; Fagan, 1996, U.S.; Sadusky, 1994, U.S.) Research by the London (Ontario) Coordinating Council to End Woman Abuse (1992, Can.) highlights similar concerns about Canada's legal response to domestic violence. Problems identified in that research include a lack of coordination of services, lack of involvement and awareness of mental health/social service providers and lack of coordination within specific areas of the criminal justice system.

Critics of the traditional legal response to domestic violence point to the system's inability to deal with the complexities and unique characteristics of domestic violence. The emotional, financial and family ties between offender and victim in a domestic violence case separate it from other violent crimes and impact the responses to legal arrangements. (Berman and Feinblatt, 2002, U.S.; Karen et al., 1999, U.S.) According to Tsai (2000, U.S., 1293) "these special features of domestic abuse cases require additional time and attention, as they often complicate otherwise straightforward situations."

Concern about the court's treatment of victims was also a motivating factor in the development of new approaches. The London Ontario report found that court policies and processes were unintentionally unsupportive of the victims of woman abuse. Researchers point to a link between how the victim is treated and whether she stays involved in the system, accesses services and co-operates with the prosecution. They maintain that the traditional justice system response lacks the victim supports and services necessary to ensure both victim safety and offender accountability. (Keilitz, 2002, U.S.).

These concerns gave rise to a wide range of legal reforms and specialized services in the 1980s and 1990s and led eventually to the development of specialized domestic violence courts. (Berman and Feinblatt, 2002, U.S.)

Problem-Solving Courts

In the United States, domestic violence courts are sometimes discussed under the broader heading of "problem-solving courts." These courts have developed over the last decade in response to some of the frustrations with the legal system outlined above. Problem-solving courts (e.g. drug courts, domestic violence courts, community courts) focus specialized attention on particular social problems. (Berman and Feinblatt, 2001, U.S.) Although such courts are not yet as common in Canada as they are in the United States, there are many domestic violence courts in existence in this country. As well, Toronto is now home to a drug court and other Canadian jurisdictions are also contemplating creating drug courts.

Problem-solving courts have several common elements:

- They seek to achieve tangible outcomes for victims, offenders and society, e.g. reduced recidivism, increased sobriety for addicts, safer neighbourhoods. In so doing, they define success in new ways, focusing on the goals of addressing defendants' problems, helping victims and improving public safety.
- They use the power of judges to promote compliance with court orders. Judges stay involved with each case for the duration.
- They employ a collaborative, multi-disciplinary approach, relying on both government and non-profit partners (e.g. treatment providers, probation departments, community groups and others) to help improve decision-making.
- They seek to achieve broader goals in the community at large without compromising the integrity of the judicial process within the courtroom.
- They ask existing players to take on new roles. (Berman and Feinblatt, 2002, U.S.)

In the American literature, problem-solving courts are often situated within a new theoretical approach – therapeutic jurisprudence. Therapeutic jurisprudence is a philosophical approach and area of legal scholarship which began in the mental health field but has since been incorporated into some legal systems. (Tsai, 2000, U.S.) According to scholars in this field, legal rules, procedures and agents (e.g. lawyers, judges) act as social forces which can produce positive therapeutic effects or negative, antitherapeutic effects for those citizens involved in the legal system (e.g. victims, defendants, witnesses). (Hartley, 2003, U.S.) Therapeutic jurisprudence seeks to increase the therapeutic effects of the law in order to enhance individuals' social functioning. It therefore supports alternative legal interventions, such as mandated batterer treatment programs. (Tsai, 2000, U.S) Therapeutic jurisprudence "attempts to combine a 'rights' perspective – focusing on justice, rights, and equality issues – with an 'ethic of care' perspective – focusing on care, interdependence, and response to need." (Rottman and Casey, 1999, U.S., p.13) Proponents of this approach argue that attending to the health and well-being of individuals before the court, as well as the legal issues, "leads to more effective dispositions." (Rottman and Casey, 1999, U.S., p. 14)

While both problem-solving courts and therapeutic jurisprudence are receiving growing positive attention in the literature, there are those who caution against an uncritical acceptance of this approach. Hanna (1998, U.S., 16) notes that evidence supporting therapeutic jurisprudence is inconclusive and that the concept "may have the unintended consequence of reinforcing the notion that domestic violence is an aberrational illness…" Steketee et al. (2000, U.S., p. 3) warn that therapeutic jurisprudence must not "violate other standards of good court performance." Berman and Feinblatt (2002, U.S.), while arguing in support of the concept, also point out that many legitimate questions have been raised about possible erosion of judicial impartiality and a dilution of the traditional criminal justice focus on public safety and offender accountability.

According to Sketee et al. (2000, U.S.) drug courts should not serve as a model for domestic violence courts "because drug courts focus on nonviolent offenders who want to change their behaviour …. In domestic violence cases it is typical for both parties to minimize or outwardly deny the existence of abusive behaviour." Even those who support the concept of problem-solving courts note that domestic violence courts, while falling under the problem-solving banner, differ substantially from other such courts. In many problem-solving courts, the focus is on the rehabilitation of the offender, e.g. drug addicts. In domestic violence courts, the focus is, and must be, on victim safety and offender accountability. Support services are offered primarily to victims and the focus is usually on assisting her through the court process and supporting her move to independence. Batterer intervention treatment is often mandated by the court, but the offender's compliance is usually closely monitored and stronger sanctions are linked to non-compliance. (Berman and Feinblatt, 2002, U.S.; Mazur and Aldrich, 2002, U.S.)

Examples of Specialized Domestic Violence Courts

Specialized domestic violence courts are a growing trend in Canada and the United States. There is great variation in what these courts do and what they are seeking to achieve; it would be impossible in this review to describe the many models currently in existence. The following section highlights four interesting approaches. These particular examples have been chosen because they illustrate the current range of activities. As well, unlike many existing domestic violence courts, these approaches have been evaluated. That evaluation research is described in the following section.

The specialized court programs described here all have one thing in common – they include a trial component. The literature indicates that most of the larger court-based domestic violence initiatives attempt to adjudicate cases right from first appearance through to trial. As well, all of these courts include some specialized services, e.g. dedicated judges, prosecutors, probation officers and victims' advocates, and all have strong links to treatment programs.

Specialized Courts in Canada

1. Winnipeg

The first Canadian Family Violence Court (FVC), located in Winnipeg, was established in September, 1990. (Ursel, 1994, 1997)

- FVC handles first appearances, remands, guilty pleas and trials for spousal abuse, child abuse and elder abuse cases.
- FVC components include a special unit of crown attorneys who exclusively prosecute family violence matters, judges assigned to sit in the court on the basis of their interest and experience in presiding over family violence cases and two victim support programs – the Women's Advocacy Program and the Child Abuse Victim Witness Program. As well, specific court rooms are designated to hear only family violence cases.
- The FVC goals are: 1) to avoid lengthy court delays and set court dates as quickly as possible; 2) to create a sensitive and supportive environment for victims/witnesses; and 3) to provide more consistent and more appropriate sentencing.
- In 1992, in response to the greater number of offenders mandated for treatment by the FVC, the Department of Justice created a special unit of correctional officers to deliver treatment to convicted family violence offenders.

2. Ontario

In 1997, two specialized domestic violence courts models were implemented in Ontario. (Family Violence Initiative, Canada; Moyer et al., 2000, Can.) Those models are described below but it should be noted that Ontario has since moved to a system in which all domestic violence courts use both the early intervention and vigorous prosecution approaches. As of January, 2003, Ontario had developed 22 Domestic Violence Courts. It plans to have such courts established in every jurisdiction in the province by 2004, for a total of 54 sites. The 1997 Ontario models are the ones described in this report, as they are the programs for which evaluation data is available.

- The two 1997 courts used two different models. One (North York) involved early intervention for low risk offenders who pled guilty; the other (Toronto) focused on vigorous prosecution for offenders at higher risk.
- The North York model was designed to break the cycle of abuse by promoting early referral of eligible offenders to intensive batterers' treatment programs. In cases where the victim did not suffer serious harm and no weapon was used in the assault, first offenders could enter a 16-20 week batterer treatment program as a condition of bail. The victim was consulted about the accused's involvement in the Project. If the offender successfully completed treatment, the Crown recommended a conditional discharge so that the offender avoided a criminal record.
- The Toronto model involved a pro-arrest policy and efforts to reduce the incidence of victim recanting and improve the ability to prosecute the case if the victim does recant. A specialized team of police, Crown attorney and victim advocates worked together to

provide victims with more support and information, gather all necessary evidence and prepare a strong prosecution.
- Throughout 1997 and 1998, the Ontario initiative was expanded into six additional sites on a pilot basis. Three sites followed the Toronto vigorous prosecution model while the others adopted the North York early intervention approach.

Specialized Courts in the United States

1. San Diego

The San Diego Domestic Violence Courts have undergone much re-organization in the last four years, impacted by a larger merger of the Municipal and Superior Courts in that system. This description focuses on the Courts in the periods just after unification, as that is the period for which evaluation data is available. (Peterson and Thunberg, 2000)

- Subsequent to unification, the Domestic Violence Court in the San Diego Municipal Court was renamed the Family Violence Solutions Center (FVSC). Three of the four Municipal Courts also contain Domestic Violence Courts.
- As a result of logistical complications related to in-custody defendants and victim safety, criminal matters, ranging from arraignments through review hearings, were moved from the FVSC to the Downtown Domestic Violence Court. Domestic restraining orders continue to be handled at the FVSC, as well as family law cases.
- Victim advocates and related services are available in the Courts.
- The original objective of the Domestic Violence Court was to reduce recidivism through increasing the number of offenders accessing treatment.

2. Brooklyn

The Brooklyn Felony Domestic Violence Court began operations in June, 1996. (Center for Court Innovation, 2000, U.S; Newmark et al., 2001, U.S.)

- The Court adjudicates all indicted domestic violence felonies in the borough of Brooklyn. This includes arraignment, hearings, motions, trials, disposition, and sentencing.
- A dedicated court team – judges, attorneys, victim advocates and a resource coordinator – ensures that defendants are carefully monitored, victims have access to comprehensive services and the judges have the information needed to make quick and effective decisions. A new automated system has been implemented to make communication and information-sharing faster and more efficient.
- Each case is handled by the same judge and prosecutor/advocate team throughout the legal process (with occasional exceptions for cases that go to trial).
- Protection orders and Court orders to batterer intervention and treatment programs during the pre-disposition phase are routine practice.
- Defendants and probationers appear regularly in Court for monitoring purposes, so the Court can review their compliance with Court orders and sanction non-compliance.

Evaluations of Specialized Domestic Violence Courts

As there have been few rigorous evaluations of specialized domestic violence courts, there is little empirical evidence of their impact. Such courts are challenging to evaluate; it is difficult to determine the specific and separate impacts of prosecution, advocacy and treatment, and therefore almost impossible to conclude which, if any, is affecting deterrence and recidivism. Perhaps in reaction to the almost overwhelming complexity of specialized courts, evaluations have tended to focus on simple, measurable court-related statistics, such as increases in probation orders and improved efficiency in case processing. There appears to be little evaluative analysis of the specialized court in the context of broader system and community efforts. (Berman and Feinblatt, 2001, U.S.; Karan et al., 1999, U.S.; Cramer, 1999, U.S.; Fagan, 1996. U.S.)

To further complicate matters, evaluators report consistent research barriers and problems across research sites. Foremost amongst these is the difficulty in comparing the functioning of the new court to that of the previous system because of the inability to determine which cases processed under the previous system were related to domestic violence. In many jurisdictions, there is no way of knowing if particular violence-related cases resolved through the traditional court system involved domestic violence and therefore no way of comparing the outcomes of the two systems. Another significant evaluation problem involves the measurement of recidivism. Evaluators have used a range of different indicators to quantify recidivism, including self-reported offender data, new police charges, new convictions and/or victim information. Depending on which kind of data is used, and the length of the follow-up period, recidivism rates can vary dramatically from one study to another. Other common evaluation problems highlighted in the literature include incomplete files, non-random, unrepresentative samples, and questionable self-reported data from the participants in the treatment programs. (Feder and Dugan, 2002, U.S.; Leduc, 2001, Can.; Moyer et al., 2000, Can.; Newmark et al, 2001, U.S.; Tsai, 2000, U.S.; Bennett and Williams, undated, U.S.)

The four evaluations described below do show increased efficiency, an increase in probation orders and mandated treatment, increased guilty pleas and decreased recidivism. There is also an increased focus on victim services and safety and in some cases increased sensitivity to victim concerns. Problems regarding the monitoring of offenders in treatment and/or participants' completion of treatment surfaced in at least two of the evaluations.

<u>Winnipeg</u>

Research and evaluation of Winnipeg's Family Violence Court indicates the following: (Ursel, 1997)

- The pattern of sentencing in domestic violence cases has changed dramatically since the introduction of the Family Violence Court. The most common disposition in FVC is a supervised probation sentence, usually with a condition for treatment. Incarceration is the second most common sentence. Before court specialization, the

most frequent disposition was conditional discharge, followed by fine. Incarceration was the least frequently used option.

- The majority of FVC supervised probation sentences contain an order for court mandated treatment, leading to greatly increased demand for such treatment programs. The active caseload of family violence offenders in Winnipeg probation offices skyrocketed to 1557 in 1995, as compared to 289 in 1989.
- The majority of FVC cases are processed in a month or two, because of the frequency of guilty pleas. In addition, FVC has been able to set trial dates more rapidly than the general court.
- Identified qualitative changes include: increased understanding that domestic violence cases should be handled by the most skilled and sensitive prosecutors; successful implementation of the somewhat contradictory policy of vigorous prosecution and victim sensitivity; increased respect and understanding of victims and the end of practices such as declaring victims hostile witnesses or holding them in contempt of court; redefinition of success by prosecutors and police from conviction to the redressing of an imbalance of power in a relationship.

Ontario

The Ontario system was evaluated when it was still structured with two different types of courtrooms (early intervention and vigorous prosecution). (Moyer et al., 2000, Can.) Findings included:

- In two early intervention courts and one coordinated prosecution court, case processing times for domestic violence cases significantly decreased and the reduction could be attributed to the Domestic Violence Project.
- There were no differences between Project victims and comparison respondents in the percentage who reported that they were treated fairly and supported by the Crown attorney and the VWAP staff. The majority in all sites felt that they had been treated fairly and been offered sufficient support. (The researchers identified a comparison group using police and victim advocate sources. This group consisted of offenders and victims who would have been eligible for the program if it had existed when their cases were going through the courts.)
- Victims in the early intervention sites were significantly more likely to be satisfied with the case outcomes than were other victims.
- There were no significant changes in the victim's willingness to testify against the accused or to otherwise cooperate with the prosecution as a result of the Project.
- Great offender accountability was achieved in the early intervention programs in that all the accused who entered the program pled guilty; in the year preceding project inception, only about 45% of similar offenders were found guilty. In the coordinated prosecution projects, there was a statistically significant increase in the proportion of guilty findings in one site.
- In the early intervention sites, treatment started soon after the program was notified of the cases. In the coordinated prosecution sites, the period of time between the receipt of referral by the program and the first treatment session ranged from two weeks to ten weeks.

- A small sample of victims reported significant reductions in the amount of both physical and emotional abuse that they experienced after the offenders had participated in treatment.
- A lack of consequences for offenders who breached their conditions of bail or probation by failing to complete the abusive men's program was a problem identified in several sites.
- Data received from treatment programs indicated that they were not monitoring victim contacts or victim services well.
- Police investigations improved in the coordinated prosecution sites but there was still room for improvement.

The report concluded with 47 recommendations, including the blending of early intervention and coordinated prosecution models in all locations. The recommendations focused on seven areas: court-based domestic violence projects; policing services; services to victims; crown attorneys and the courts; probation services; treatment for abusers; and research.

San Diego

A court-based evaluation of the San Diego Domestic Violence Courts was conducted in 1999-2000. The evaluation focused on the Domestic Violence Court as it existed prior to unification with the municipal courts. However, in some cases, data was also available on the post-unification courts. Evaluation results were compared to baseline data collected before the original Domestic Violence Court was established. (Peterson and Thunberg, 2000)

- Overall efficiency seems to have increased. For the original domestic violence court (SDMC DV Court), settlements at arraignments increased from 2% to 45% and there were fewer trials and fewer pleas on the day of trial. Three of the four post-unification courts had similar results. The fourth arraigns domestic violence defendants on a master calendar and then transfers the cases to Domestic Violence Court after the hearing.
- There was a dramatic reduction in the median number of days to reach disposition, from 57 in the baseline study to 15 for the SDMC DV Court. The post-unification courts showed similar results.
- The percentage of defendants placed on formal probation was 7% for the baseline study and 44% for the SDMC DV Court.
- The proportion of defendants enrolled in treatment increased from 65% in the baseline study to 76% in the SDMC DV Court. The percent that stayed in the program without dropping out stayed almost the same. However, the evaluators expressed some concern about the accuracy of the baseline data on this question because of problems with the reporting system in place during that period. The median number of days between sentence and enrollment dropped significantly, from 90 days to 23 days.
- The percentage of hearings for which the defendant failed to appear remained the same, at 13% for both the baseline group and the SDMC DV Court. Among the four post-

unification courts, the percent of defendants with at least one bench warrant (which includes other failures) ranged from 32% to 19%.

- The percentage of defendants with post-disposition hearings for non-compliance remained almost the same, at 67% for the baseline population and 69% for the SDMC DV Court. The numbers may be masking some improvements, however, as the number of post-disposition hearings increased in the SDMC DV Court.
- The speed with which the system responded to non-compliance greatly increased. Before the SDMC DV Court was established, the median number of days from issuance of the warrant to the time the defendant appeared in court was 42. After the Court was established, it was 28 days.
- The recidivism rate dropped from 21% in the baseline population to 14% for the SDMC DV Court. (Recidivism was defined as having one new police contact for domestic violence within one year of conviction.)

Brooklyn

A process evaluation completed in 2001 examined the development, implementation, challenges, evolution and expansion of the Brooklyn Felony Domestic Violence Court (FDVC). It also included a pre/post evaluation of how the court influenced case processing, outcomes and recidivism. The authors warned, however, that recidivism data was somewhat unreliable because of problems with data collection and the pre/post design. (Newmark et al., 2001, U.S.) Findings included:

- Under the new system, the District Attorney's Office was more likely to indict cases with less severe police charges in order to bring the enhanced defendant monitoring and victim services resources to these cases. Dismissal rates were very low, at 5% to 10% of indicted cases.
- Victim services were clearly expanded under the specialized Court, in that all victims are assigned an advocate and receive a protection order.
- Pre-disposition release was used somewhat more often in FDVC cases and released FDVC defendants were more likely to be ordered to batterers' intervention programs while on release.
- The specialized Court spent slightly more time, on average, processing cases from felony arraignment to disposition. This may relate to the severity of indictment charges and the Court's emphasis on "a more hands-on approach" which acknowledges the complexity of the cases.
- Conviction rates did not change under the specialized Court, but methods of reaching disposition did. Conviction by guilty pleas were more common and trials were less common in FDVC cases.
- Sentencing practices under FDVC were neither more punitive (in terms of incarceration) nor more treatment-oriented on the whole than sentencing practices before the Court began.
- Probation violations were reported for about one-third of all probationers and did not change under the new court model. Additional arrests for those released prior to disposition were even higher, at nearly half of all released defendants. Rates of pre-disposition repeat arrests did not vary by type of court, but post-disposition arrest rates

were double for FDVC-processed cases (about half versus one-quarter). Very limited data were available on the nature of the additional arrest charges and it was not possible to distinguish domestic violence from other types of criminal incidents.

Challenges and Criticisms

Specialized domestic violence courts are not without their difficulties. A range of issues have been identified in the literature as posing both philosophical and practical challenges for the concept. These include the implementation problems inherent in co-ordinating so many large and sometimes intractable systems, the possible interference with judicial impartiality and due process, the many questions raised about the effectiveness of treatment programs and, as discussed above, the lack of rigorous evaluative data.

With so many different players in place, all with slightly different objectives and agendas, analysts worry that true co-ordination and collaboration will be difficult to achieve. Given the complexity of the issues involved and the number of resources which must be in place to bring about real change, the breadth of the undertaking is certainly an implementation issue. (Newmark et al., 2001, U.S.)

Of particular concern is that participating players hold the sometimes conflicting goals of victim safety and offender accountability and that these may collide, with the result that victims are put at risk by being forced to testify. (Keilitz, 2002, U.S.; Tsai, 2000, U.S.; Karan et al., 1999, U.S; Fagan, 1996, U.S.) Academics point to the underlying need for changes to the organization and culture of criminal justice organizations to incorporate a focus on protecting and empowering victims and redefining success so that offender conviction and jail time are not seen as the only desired outcomes. (Ursel, 1997, Can.; Fagan, 1996, U.S.; Clark et al., 1996, U.S.) This issue is a complex one, as one of the basic premises of Canadian criminal law is that criminal cases involve two parties: the state, acting on behalf of society, and the accused. Traditionally, victims have played very limited roles in criminal court cases. "The fundamental policy objectives of the criminal justice system are based on a classical concept of society as a contract between a neutral arbitrating state and rational individuals. The state provides society and its members with a reasonable degree of security, and ensures just treatment for the accused… These policy objectives ignore the victim as such, other than as a member of society." (Clarke, 1986, Can. as reprinted in Saunders and McMungle, 2002, Can., p. 266). As those involved in the victim movement have found out, carving out a role for victims in the criminal justice system is a formidable challenge and any work in this area must be based on a sound understanding of the underlying theory, premises and traditions of the Canadian criminal justice system. Absent of this broad understanding of each system's structure, core premises, culture and objectives, meaningful collaboration will be very difficult to achieve.

A related co-ordination challenge involves information sharing. Many analysts see sophisticated information systems as crucial to the success of specialized courts, so that all parties can be apprised of important developments in a timely manner, (e.g. decisions in family court, probation violations etc.) and decision-making can be well-informed.

(Rottman and Casey, 1999, U.S.) Others express the concern, however, that too much information-sharing could lead to tragic results, with mothers losing their children to the child welfare system because of the violence the children have experienced or witnessed at home. (Keilitz, 2002, U.S.) Further complicating this issue, of course, is the constraints placed on many jurisdictions, including Alberta, by privacy legislation.

The complex demands placed on judges and the possible loss of judicial impartiality are also highlighted in the literature. Researchers point out that judges in specialized domestic violence courts face the mammoth task of developing a deep understanding of domestic violence, considering the effects of violence that go beyond the particulars of the case before the court, protecting the rights of both the victim and the accused, and monitoring and enforcing compliance with the court's orders, including treatment conditions. (Karan et al., 1999, U.S.) Such a deep immersion in the issue and in "difficult and emotionally charged cases" may lead to burn out and a decrease in judicial effectiveness. It may also lead to the appearance of a loss of judicial impartiality. (Keilitz, 2002, U.S.; Berman and Feinblatt, 2001, U.S.; Rottman and Casey, 1999, U.S.)

Apart from issues of independence and impartiality, some writers question the wisdom of judges becoming involved in addressing social issues, pointing out that they often have neither the expertise nor the authority to work in such areas and may impose decisions which do more harm than good. (Berman and Feinblatt, 2002, U.S.)

Legal literature raises a number of concerns related to due process and the presumption of innocence in specialized courtrooms. In particular, the legality of such practices as pre-disposition batterer intervention or other treatment orders is questioned, as they seem to imply guilt and impose punishment before a conviction is reached. (Newmark et al., 2001, U.S.) Analysts also ask whether the emphasis on the team approach (e.g. defence lawyers participating in pre-court conferences with prosecutors, probation officers and victims' advocates) weakens the defence lawyer's vigorous defence of the client. (Berman and Feinblatt, 2001, U.S.)

The pivotal role of treatment programs in specialized courts is a cause for concern for some academics. They point to continuing questions about the effectiveness of the programs and worry that mandating batterers to such services reduces offender accountability and sends the message that domestic violence is not a serious crime. (Keilitz, 2002, U.S.; Feder and Dugan, 2002, U.S.:Tsai, 2000, U.S.; Hanna, 1998, U.S.) These issues are discussed in greater depth in the treatment section of this report.

Finally, the lack of evaluative data on the specialized courts, and the difficulties experienced by those attempting to measure recidivism, are noted in the literature. These issues call into question the impact and effectiveness of the approach. (Tsai, 2000, U.S.)

Best Practices

Several academics and policy-makers have built on the critiques of specialized courts to develop descriptions of the elements needed to make the model effective and successful.

The following section summarizes the proposals put forward by those writers. Many of these recommendations also involve systems and organizations which will be discussed more fully later in this report, e.g. victim advocacy, probation etc.

Broad-based Collaboration

Most researchers conclude that a comprehensive, broad-based collaboration is crucial for the success of a specialized court and its attendant services. The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) lists co-ordination of justice system response and co-ordination with a range of other service-providers as key elements of successful domestic violence courts. Karan et al. (1999, U.S.) call for a wide range of partners to be involved in planning and implementing the new system, including the executive and legislative branches of government, the judiciary, the clerk's office, the administrative office of the court, legal clinics, law schools, victim advocates, the police, corrections, prosecutors, defence bar, parole and probation, treatment providers, and governmental and non-profit agencies. Tsai (2000, U.S.) recommends even broader involvement, including families, individuals, schools and churches in order to provide education about the issue and send the message that domestic violence will not be tolerated.

Clearly, the list of partners who need to be involved in a successful domestic violence court is long and co-ordinating so many players is a huge implementation challenge. One of the proposed solutions to this problem is ongoing and permanent support for the project director position. (Newmark et al, 2001, U.S.)

Comprehensive Victim Services

Arguing that "victims should not be forced to navigate through complicated, redundant, ineffective procedures," Karan et al. (1999, U.S.) describe a "model intake center" which would provide "one-stop shopping" for victims. (p.p. 79-80) This center would involve multi-agency staffing, with representatives from the clerk, the court administrator, the prosecutor, law enforcement, probation and victim advocates, so that victims could take care of the range of paperwork necessary in one place and receive information and support from the various parties involved at one time.

Similarly, Keilitz (2000, U.S.) suggests specialized intake units which orient victims to court procedures, assist them in understanding their roles in civil and criminal procedures, help them to access services and refer them to relevant programs.

Mazur and Aldrich (2002, U.S.) also call for extensive victim services, including many of the elements noted above. As well, they point to the need to keep victims informed of developments in their cases, schedule cases promptly to enhance victim safety, create safe spaces at the courthouse in which victims can meet with advocates and/or wait for court in privacy, and connect victims with a range of long-term services.

A focus on victim safety and support services is also apparent in the Canadian literature. Jane Ursel (2001, 1998, 1996, 1994, Can.) writes extensively about the need to support

victims throughout the process, arguing that if victims feel supported by the system, even those who are not yet ready to make a final break from their batterers will continue to engage the criminal justice and legal systems until such time as they can disengage themselves from the violence. The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) also notes the importance of victim access to support, information and referral.

Effective Law Enforcement Procedures

Effective and specialized law enforcement units of police departments are seen as crucial partners for the specialized courts. Karan et al. (1997, U.S.) call on police departments to undertake a number of changes including:

- Organizing departments to include specialized domestic violence units as part of community-oriented policing initiatives;
- Developing written protocols and policies designed to address domestic violence;
- Mandating and enforcing domestic violence training for every police recruit and in-service training for officers and commanding officers;
- Developing "public/private" partnerships with local community advocacy groups;
- Working in close association with the prosecutor's office to develop evidence-gathering techniques that enhance the prosecutor's case at trial

Ursel (1998, Can) notes the importance of specialized police units focused on domestic violence. According to Ursel, police work in this area must be based on an understanding of the slow, often circuitous process, of ending domestic violence in a relationship. Ursel calls on police officers to change their definition of success from arrest leading to conviction to a focus on supporting the victim through the many police visits and interventions which might be necessary to obtain her cooperation with the prosecution and the conviction of the offender. "Changing our expectation of interventions from heroic rescues to slow, painful processes of empowerment is a task we must all undertake." (p. 79) Ursel (2001, Can.) also recommends police training around the issue of dual arrests (discussed later in this chapter) to ensure that police are taking appropriate action in cases where both parties are alleging abuse.

Offender Accountability

Any effective system must hold convicted offenders accountable, for both the violation of protection or probation orders and for lack of attendance at court-mandated treatment. The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) calls for the monitoring of offender compliance, with meaningful sanctions to hold offenders accountable. Karan et al. (1999, U.S.) point to the potential benefits of a judicial review docket to allow judges to monitor perpetrators' compliance with the court's orders.

High-Quality Treatment Programs

Both Tsai (2000, U.S.) and Karan et al. (1999, U.S.) speak to the need for effective, high-quality treatment programs, subject to standards and certification. Standards would detail the content, duration and quality of the programs, as well as the educational requirements and training of the therapists. Speaking specifically in the Canadian context, Ursel (20001, Can.) recommends culturally appropriate, Aboriginal-specific treatment and support programs for all family members. The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) calls for early access to treatment by offenders, "to capitalize on offender motivation to change and allow for a more immediate response." (p. 47)

Mazur and Aldrich (2002, U.S.) discuss the need for the Court to build strong relationships with batterer intervention programs, so that they are aware of which programs to mandate offenders. Protocols ensuring that the Courts are notified of offender non-compliance with treatment are also crucial.

Specialized Prosecution Units

Karan et al. (1999, U.S.) recommend specialized prosecution units staffed by trained domestic violence prosecutors and victim advocates, who handle the cases from inception through disposition and employ procedures that stress victimless prosecution. Written domestic violence protocols and procedures must be in place and the units must establish linkages with community advocacy programs.

Ursel (2001, 1998, 1996, 1994, Can.) has also focused a great deal on the need for specialized prosecution units. Her recommendations in this area are explored in more detail in the prosecution section of this chapter. Suffice it to say here that she calls for a prosecution policy which both supports and respects the victim and holds the offender accountable. Ursel feels that Crown Attorneys must redefine success, moving away from a focus on conviction and accepting the importance of supporting the victim through the long process of disengaging from domestic violence. One interesting strategy used in Winnipeg to facilitate this approach is testimony bargaining, in which the Crown agrees to reduce the number or severity of charges and/or recommend probation and court-mandated treatment in return for the victim/witness's cooperation.

Specialized Probation Departments

According to Ursel (2001, 1996, Can.), one clear consequence of specialized domestic violence courts is increased pressure on probation departments, as more offenders are sentenced to probation, with treatment conditions. She calls for additional resources for probation departments, so that they can effectively meet the demand caused by specialized courts. Karan et al. (1999, U.S.) recommend specialized probation and parole departments employing officers with training in domestic violence. Those officers would monitor compliance with conditions of probation, including treatment orders. (Karan et al., 1999)

Informed and Involved Judges

As noted above, judges play a crucial role in the success of specialized domestic violence courts. Karan et al. (1999, U.S.) describe the sensitive balancing act which must be undertaken by the judiciary, saying that effective domestic violence court judges must understand the dynamics of domestic violence and apply the concepts of therapeutic jurisprudence in decision-making and case management, while still remaining true to the goals of justice and fairness for all parties involved. They must also remain involved in monitoring offender accountability once the sentence has been pronounced or the protection order issued.

Keilitz (2002, U.S.) argues that specialized judges must be designated to domestic violence courts. Such judges, she says, develop competencies that promote "better decision making and more consistent and fair processes for victims and batterers." (156)

According to Mazur and Aldrich (2002, U.S.), a single judge should handle criminal domestic violence cases from arraignment through sentence and compliance. They also say that domestic violence courts should use intensive judicial supervision from arraignment through disposition and use innovative monitoring methods, such as ankle monitors, phone check-ins and curfews.

Integrated Data Collection and Distribution

Keilitz (2002, U.S.) makes a strong case for integrated data collection systems to collect and synthesize data from all system participants, including the various courts (criminal, civil and family) which may be involved with one family. At the very least, she says every agency involved should be able to identify, track and analyse domestic violence cases.

"Case coordination mechanisms and data systems are critical for identifying, linking and tracking cases that involve the same parties or other members of their families…. Information sharing among the various agencies, courts, judges, victim advocates and prosecutors handling these cases can prevent judges from issuing conflicting orders that can put the victim and her children in danger or confuse the parties about their obligations or restrictions on their actions." (p.p.154-155).

Evaluation

Most writers and researchers in this area acknowledge the dearth of solid evaluation data on domestic violence courts. In response to this, The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) calls for the monitoring and evaluation of specialized court systems, to assess effectiveness and to identify areas requiring change or improvement.

Conclusion

The one theme running throughout the literature on specialized domestic violence courts is that developing and implementing such initiatives is a huge undertaking. In order to be successful, specialized courts must be based on meaningful collaborations amongst many large systems. They must also establish strong links with community organizations and networks. Bringing all of these players together, with their different and often conflicting cultures, mandates and objectives, is a formidable challenge. Evaluative literature indicates, however, that specialized courts are having some success in addressing domestic violence. The evaluations discussed in this paper found increased efficiency, an increase in probation orders and mandated treatment, increased guilty pleas and decreased recidivism. They also indicated an enhanced focus on victim services and safety and in some cases increased sensitivity to victim concerns. It would appear that, despite the many challenges involved, some jurisdictions have developed successful specialized courts which have increased their communities' abilities to effectively address domestic violence.

SECTION FOUR: ADVOCACY AND RELATED VICTIM SUPPORT SERVICES

Introduction

Limited research, of either a descriptive or empirical nature, has been conducted on advocacy and victim support services. A review of the literature which does exist indicates confusion and a lack of clarity about the definition of advocacy and the types of services which should be offered by advocates. Some writers, and programs, focus solely on advocacy in the legal system while others say that advocates, even those working in the courtroom, must ensure that women are connected with necessary services such as counselling and housing.

The literature also indicates a difference between Canadian and American advocacy programs. Although there appears to be little Canadian research on advocacy services linked to specialized court services, some work has been done on advocacy and follow-up programs connected to women's shelters. Such work is premised on a broad understanding of victim support, which includes not only advocacy and connection to community services but also counselling and assistance as the woman builds an independent life. That is, Canadian writers and service-providers seem to have rejected a narrow conception of advocacy and instead situate it within a broader array of victim support services. (Tutty and Rothery, 2002, Can.; Tutty, 1996, 1993, Can.)

For the sake of completeness, and in keeping with Canadian thinking on this subject, this document assumes advocacy services to mean the whole range of connections and supports (e.g. legal, social and emotional) needed to meet the victims' needs.

This section is divided into six sub-sections: need for services; potential benefits; program evaluations; issues and challenges; best practices; and conclusion.

Need for Services

As noted in the previous section on specialized courts, comprehensive victim services and advocacy programs are considered by many writers to be essential to the success of a specialized court program. Current research offers several compelling arguments for including advocacy services in specialized courts and, indeed, in any comprehensive domestic violence intervention.

Weisz (1999, U.S.) views the relational perspective as important to understanding the necessity for advocacy services. According to this approach, programs which meet women's relational needs for caring and connectedness are most likely to be successful. Weisz points to research which shows that differences between the culture of battered women and that of the police contribute to women's feelings of disconnection and isolation within the legal system. Most battered women come from a "culture of relationships," in which the importance of maintaining family connections leads them to make decisions based on compromises, rather than on their own best interests. Weisz concludes that those working with victims must understand and adopt the relational

perspective, as distinct from the more hierarchical, fact-driven, power-based culture of the legal system.

Domestic violence researchers also point out that battered women are often isolated from social supports and networks by their abusive partners and therefore may not have the means to connect with needed help and resources themselves. Victims may also suffer from Post Traumatic Stress Disorder, which further erodes their confidence and makes them less likely to seek out help or information on their own. (Weisz, 1999, U.S.; Sullivan and Bybee, 1999, U.S.) Even when they leave their batterers, women may continue to feel isolated and depressed. Tutty and Rothery (2002, Can.), in their follow-up research of former residents of women's shelters, found that the women experienced loneliness, anxiety, low self-esteem and feelings of inadequacy. Many of the study participants commented on the importance of their follow-up counselor in dealing with these issues.

In addition to a need for emotional and social support, battered women often have immediate practical requirements that must be met. Tutty and Rothery (2002, Can.) found that victims struggle with a number of practical concerns, related to safety, legal difficulties, especially related to custody and access to children, employment, housing and finances.

Research indicates that many court-based programs that do not employ advocates fail to meet women's needs, even when those women are resourceful in seeking out help and information. One study of 90 victims of domestic violence found that the most common suggestion for improvement was more information on court process and community services. Another study found that abused women perceived less empowerment both personally and in the court system than non-abused women. Some researchers suggest that victims are unlikely to participate in the justice system if their basic safety and survival needs remain unmet. (Ad Hoc Federal-Provincial-Territorial Working Group, 2003, Can.: Tutty and Rothery, 2002, Can.; Weisz, 1999, U.S.; Mills, 1998, U.S.; Hart, 1995, U.S.)

Potential Benefits

The literature highlights a number of potential benefits of advocacy programs, ranging from the micro work of providing practical assistance and emotional support all the way to the macro-level identification of systemic reform.

Giles-Sims (1997, U.S.), as part of a literature review on the psychological and social impact of partner violence, says that, theoretically, social support may provide some psychological buffer to the effects of violence. Research indicates that almost any support helps victims to deal with battering and may actually play a role in reducing the amount and frequency of abuse. Victims with the least social support tend to seek help less, remain for longer periods of time in abusive relationships and experience more severe abuse.

Advocacy services may lead to more effective use of the legal system by victims. For example, victims may be more likely to press charges, obtain protection orders and testify in court when they are supported by advocates. Weisz (1999, U.S.), while acknowledging that empirical evidence is scarce in this area, says that advocacy often facilitates victim participation in, and commitment to, the criminal justice system because it helps victims learn about their legal options within a supportive context. Similarly, Thelen (1999, U.S.) says that a trained advocate can help victims navigate through an overwhelming system and make the many important decisions which lie before them. Without such support, victims may be more likely to regret their involvement in the legal system and may not feel able to continue that involvement. Tutty and Rothery (2002, Can.) also found that such assistance helps women to follow through with legal actions and proceedings. As is clear from the evaluative literature on specialized courts, reviewed in the previous section, this follow-through has a crucial impact on court proceedings; victim participation in the legal process is often a key factor in whether the accused pleads guilty or is found guilty at trial. (Moyer et al., 2000, Can.)

The provision of practical supports is also a crucial role for advocates. As Thelen (1999, U.S.) says, coordinated community responses are built on a recognition that the period of intervention and separation can be a very dangerous time for the victim. Protective services such as emergency housing, educational/support groups and advocacy in the legal, medical and welfare systems may increase victim safety.

Advocacy services can provide relevant feedback on the impact of legal reform on victims. According to Thelen (1999, U.S.), advocates are in a unique position to assess the efficacy of reform because they are usually with the victim throughout her involvement with the legal system, from the time of the abuser's arrest through case disposition and sometimes beyond. Advocates are also usually independent from the justice system and can therefore offer an objective assessment. Thelen concludes that for any coordinated response to be effective, it must develop systematic processes to elicit and analyse feedback from advocates. "Without centralizing ongoing feedback from independent advocates to identify continuing problems in the systemic response, a coordinated community response will not keep victims safe, hold offenders accountable, nor change the climate in the community."(Thelen, 1999, U.S. p. 4)

Individual advocacy is also a key factor in the development of broader systemic advocacy. Thelen (1999, U.S.) says that individual advocacy efforts led to the identification of the institutional barriers faced by domestic violence victims in the religious, welfare, medical, mental health, educational and justice systems and helped form the practice of systems advocacy, leading to greater safety for victims and greater accountability for batterers.

Program Evaluations

Few systematic evaluations of advocacy programs have been conducted. Researchers are, therefore, careful of making claims about the efficacy and impact of such programs. Early studies indicate, however, that the advocacy approach has merit, in that it helps women

move successfully through the legal system and provides much-needed emotional and practical support. High-quality, emotionally supportive advocacy programs may be linked to increased participation in the legal process by battered women. Of particular interest is the fact that at least two evaluations determined that women who received advocacy support actually experienced less subsequent violence. This lends support to Gile-Sims' theoretical argument, described earlier in this section, that social support may provide victims with the tools they need to deal with battering. (Gile-Sims, 1997. U.S.)

American Research

Weisz, Tolman and Bennett (1999, U.S.) used both quantitative and qualitative data to study whether women's receipt of advocacy services and protective orders affected their partners' subsequent arrests and police contacts. The study analysed the records of about 350 physical abuse cases. Open-ended interviews with a small number of battered women and agency staff were used to expand and illustrate the quantitative data. The study found that when a woman received advocacy services or had a protective order, a completed court case was more likely and the number of arrests in subsequent police interventions rose. These associations were strongest when women received both advocacy services and at least one protective order. Advocacy services included assistance with legal and non-legal matters.

As part of the previously cited research, Weisz (1999, U.S.) conducted interviews with 11 battered women and held three focus groups with staff, including advocates, from a shelter. The study found that advocates gave women information about the law and their rights of which they were previously unaware. The support and presence of the advocates often helped women feel less vulnerable and provided the encouragement they needed to press charges, get protective orders and carry through with prosecution. The study found that survivors needed a "very potent form of help" because of their "relational culture" which included concerns for their children and confusing and powerful attachments to their partners. The author concludes that legal advocacy for survivors can be helpful to women and effective in supporting them through the legal system, if it responds to women's relational needs by offering emotional support, information and the physical presence of an advocate.

Sullivan and Bybee (1999, U.S.) conducted a study with 278 women from a Midwest shelter program in which half the women were randomly assigned to receive free one-on-one advocacy services for four to six hours a week during their first ten weeks out of the shelter. The advocacy was provided by female undergraduate students as part of a two-semester university psychology course. Assistance was provided with such matters as education, legal assistance, employment, services for children, housing, child care, transportation, financial assistance, health care, and social support. Variables measured by the researchers included experience of violence by partners and ex-partners, psychological abuse, quality of life, depression, social support, effectiveness in obtaining resources, and difficulty obtaining resources. Women who worked with advocates experienced less violence over time, reported higher quality of life and social support, and had less difficulty obtaining community resources. Twenty-four percent of the women receiving

advocacy services experienced no violence during the two years following the intervention, as compared to 11% of the women who did not receive such services.

Bell and Goodman (2001, U.S.) evaluated the effectiveness of a legal advocacy program in which law students worked intensively with battered women to obtain protective orders. Data was collected on 21 women in the advocacy program and 36 women in a comparison group. Each participant in the advocacy program was paired with two second or third year law students. The primary focus of the program was to provide victims with legal representation and support throughout the court process. However, advocates also helped the women with safety planning, provided referrals to community agencies and information on domestic violence, and offered emotional support. Women in the comparison group also had access to court-provided volunteer advocates during their involvement with the legal system. However, those women generally did not interact with the advocates over an extended period of time and did not have the opportunity to develop continuous relationships with one particular advocate. The evaluators found that women working with the law student advocates reported significantly less physical and psychological re-abuse and marginally better emotional support after six weeks, as compared to the women who received standard court services. There was no significant change in the levels of tangible social support or symptoms of depression.

Canadian Research

Tuttty and Rothery (2002, Can.) reported on interviews conducted with 35 women while they resided in women's shelters and four to six months later. The researchers compared the concerns of the 21 women who connected with the shelter follow-up program with those of the women who had not. Although the problems identified by the two groups of women were similar, the women involved with the follow-up program were more connected to community resources than those who were not involved with the program. By the time of the follow-up interviews, only four of the 21 follow-up clients still lacked emotional support in their lives. Ten of the women in the program experienced considerable improvement in their self-esteem; no members of the non-follow-up group reported improvements in self-esteem. Considerably more follow-up clients were involved in school or job training activities than were members of the non-program group.

Tutty (1996, Can.) evaluated two follow-up programs located in women's shelters. The programs were intended to provide ongoing support to former shelter residents living independently from their assaultive partners. As part of the programs, social workers visited clients in their homes for one to two hours a week in a counselling and advocacy role. The social workers' responsibilities
ranged from assistance with basic needs such as income, housing and furnishings to help with more complex issues such as dealing with the legal system and obtaining educational upgrading, job training or employment. As well, a major part of the work focused on helping the woman plan how to respond to her ex-partners. Both quantitative and qualitative data were collected from the follow-up workers and the women. Workers completed ratings scales on 60 women; a subgroup of 28 women completed standardized measures at two points in time; and 31 women were interviewed by the author. The

research found that the participants significantly improved their amount of appraisal support (the availability of someone to talk to about one's problems), although tangible and belonging support and perceived stress levels did not change significantly. Self-esteem improved significantly for a subset of 12 follow-up clients. Data from the individual interviews indicated that virtually all of the women found that the counselling and advocacy relationship with the workers was of primary benefit. As well, the majority of the women perceived the programs as central to their not returning to an abusive relationship.

Issues and Challenges

The research community has noted several significant issues yet to be resolved regarding advocacy services. Some of these concerns are related to the fact that the development of advocacy programs is a fairly recent endeavour. As a result, there is little evaluative data, definitions and program components are not yet clear, and advocates are still struggling to define and accept their place within the broader systems in which they work.

The absence of evaluative data on advocacy programs continues to be a concern in the literature. Little information is available on how to provide such services most effectively and there have been few attempts to elicit opinions from victims and/or practitioners on the successes and limitations of advocacy. (Bell and Goodman, 2001, U.S.; Weisz, 1999, U.S.)

The lack of clarity and definition around advocacy services is an issue for academics and practitioners. Many new initiatives include advocacy, but there is little agreement about what such programs should entail. (Weisz, 1999, U.S.) The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) has pointed out that the scope of victim and advocacy services differs significantly across Canada. Some programs are police-based, some are system-based (including correctional) and others are community-based. Programs may be delivered by government, police or community organizations and by paid staff or volunteers.

As the evaluations reviewed above demonstrate, advocacy and victim services seem to run the gamut from strict legal information to assistance with a range of social supports. While such flexibility may be beneficial, in that communities can create programs which meet their own needs, caution must be exercised in providing services which venture into clinical and legal arenas. Staff and volunteers who are trained in providing emotional and practical support may not have the expertise to provide legal information, and vice versa. Moreover, programs without clearly defined boundaries may overwork staff, leading to less effective advocacy interventions. As it is, most advocacy programs cannot meet demand; they often do not have the staff and resources "to fully address the complex and multiple problems that victims bring to them." (Bell and Goodman, 2001, U.S., 1378)

Researchers also note the inherent difficulties that court- and system-based advocacy programs experience in attempting to reconcile their dual roles of advocating for victims

and operating as part of the legal system. (Ad Hoc Federal-Provincial-Territorial Working Group, 2003, Can.) This is especially true for programs which started as part of the shelter movement and then moved to court-based services. Blending feminist principles, which are focused on supporting and empowering the women involved, with the hierarchical, often male-based operations of the court provides an array of challenges. Becoming too closely aligned with the court may also limit advocates' ability to lobby for institutional change. (Wan, 2000, U.S.; Shepard, 1999, U.S.; Moore, undated, U.S.) As Shepard puts it, "(i)t is important that advocates be closely involved with community intervention projects in developing a coordinated community response. However, they need to maintain their separateness and unique role in the community." (Shepard, 1999, U.S., p. 119)

And finally, the literature identifies the danger that advocates, similar to domestic violence counselors, may experience secondary or vicarious trauma after hearing repeated stories of abuse and dealing on a daily basis with ineffective systems. As a result they may begin to "think differently about the world in terms of its safety and the level at which people can be trusted," leading to more bureaucratic and less empathetic interactions with their clients. (Wan, 2000, U.S., p. 627)

Best Practices

As discussed in the previous section on specialized courts, several writers have described a model victims' service or advocacy program which they feel should play a pivotal role in any court initiative. Such a service would be broad and comprehensive, with victims being provided with a range of information and support at a multi-agency, one-stop-shopping intake centre.

The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) has identified the key elements of an effective response to victim needs. Perhaps reflecting the academic debate over the nature of victim and advocacy services, the working group has grouped those elements into two categories: services linked to the justice system and community-based programs.

The Working Group identifies the following as important components of an effective system-based victim support program:

- Intervention as soon as possible following the incident
- Provision of information about abuse, the criminal justice system, the role of the victim-witness, and case status
- Referral and access to a range of supporting agencies and services to meet the multiplicity of victim needs
- Victim notification of, and participation in, decisions regarding the release of accused individuals and offenders, and conditions associated with the release
- Emotional support crisis intervention
- Assistance with victim impact statements
- Risk assessment and safety planning

- Collaboration and co-ordination among agencies providing services
- Clarity of roles (between criminal justice based victim services and community support agencies)
- Availability of information and effective communication mechanisms among players within, and external to, the justice system

The Working Group then goes on to identify the community services which "must be available to complement government support services for victims involved with the criminal justice system." (p. 63) They include:

- Emergency access to a safe place (including emergency transportation and overnight accommodation)
- Counselling and emotional support (immediately following a crisis and through follow-up and outreach)
- Information and referral
- Access to affordable and safe housing and to legal and medical services
- Employment and income support
- Mental health and addiction services where required
- Child care, child support and counselling for children to overcome trauma
- Safety planning
- Assistance with the family law system

Conclusion

Despite the lack of clarity around some aspects of victim advocacy, the literature is clear on the importance of such programs in supporting women as they move through the legal system. Indeed, there are many indications in the existing research that victim support is crucial to women's successful and continual participation in the legal process. What form such support programs take differs from jurisdiction to jurisdiction but the federal government has provided some broad parameters, outlined above, which might prove useful in the implementation of victim support services in Canada. That federal work supports the broad, holistic interpretation of victim advocacy adopted in other Canadian writings on this issue.

SECTION FIVE: LAW ENFORCEMENT

Introduction

Much has been written on the impact of police practices on domestic violence, particularly on the possible links between arrest and recidivism, the utility of mandatory and pro-arrest policies and victim motivation for involving law enforcement. This section reviews that literature. It is divided into seven sub-sections: history of police involvement in domestic violence; police arrest studies; pro-arrest policies; actual police practices; dual charges; victim feedback; and a summary.

History of Police Involvement in Domestic Violence

Until fairly recently, most police departments in both Canada and the United States evidenced a clear reluctance to get involved in domestic violence cases. The literature is rife with examples of police inaction on woman assault. (Roberts and Kurst-Swanger, 2002, U.S.; Melton, 1999, U.S.; Saccuzzo, 1999, U.S.) As Roberts and Kurst-Swanger (2002, U.S,) put it, "the classic police response to domestic violence involved a 'do-nothing' approach or temporarily separating the parties until the abuser cooled off." (p.103). Ursel (1999, Can.) uses similar words to describe the history of police action in Canada: "In the past, police frequently did not respond, were slow arriving at the scene, reluctant to believe victims and preferred walking assailants around the block to cool them off before warning both husband and wife to behave." (p. 74).

Many reasons are provided in the literature for the historical lack of police action in cases of domestic violence. They include: a general societal belief that domestic violence was a private matter between family members and should not be subject to the same level of scrutiny as violence among strangers; police officers' opinions that dealing with domestic abuse cases was social work, not "real" police work; lack of organizational incentive to take the time necessary to deal effectively with domestic violence; legal restrictions on when police officers could arrest domestic violence offenders; police officers' beliefs that victims would recant and not proceed with prosecution; and a departmental focus on rewarding officers for the arrests and convictions more common in other types of police work. (Buzawa and Buzawa, 2003, U.S.; Ursel, 2001, Can.; Melton, 1999, U.S.; Rigakos, 1998, Can.)

In the 1970s and 1980s, growing demand from the women's movement to redress this situation, along with several high-profile lawsuits in the United States involving clear cases of police failure to protect battered women, led to changes in how police responded to domestic violence in both Canada and the United States. Another important development was the American police arrest studies of the 1980s. (Buzawa and Buzawa, 2003, U.S.; Ursel, 2001, Can; Melton, 1999, U.S.; McGillivray and Comaskey, 1998, Can.)

Police Arrest Studies

Six experimental research studies, collectively known as the Spouse Assault Replication Program, were carried out between 1981 and 1991 to test whether arrest deterred subsequent violence better than other police actions (e.g. providing advice and informal mediation, ordering the offender to leave the premises temporarily). (Roberts and Kurst-Swanger, 2002, U.S.; Maxwell, Garner and Fagan, 2001, U.S.)

The first of the studies, the Minneapolis Domestic Violence Experiment (MDVE), found that arresting batterers reduced by half the rate of subsequent offences against the same victim within a six-month follow-up period. (Maxwell, Garner and Fagan, 2001, U.S.) These results were widely publicized and led many jurisdictions across the United States and Canada to develop mandatory or pro-arrest policies, under which police officers must arrest abusers when there is evidence of a criminal offence. (Buzawa and Buzawa, 2003, U.S.; Roberts and Kurst-Swanger, 2002, U.S.) Research taking place in Canada at the same time confirmed the Minneapolis results; Peter Jaffe's study of a pro-arrest policy in London, Ontario found a sharp decrease in the number of wife assaults after the implementation of the policy (cited in Ursel, 2001, Can.).

The five American SARP studies which followed the MDVE produced inconsistent findings about the impact of arrest on recidivism. (A sixth study was intended for Atlanta but the results were never published.) In fact, three of the replication studies determined arrest to be a less effective deterrent than other police responses and some of the research suggested that arrest could actually lead to additional violence amongst some batterers, i.e. the unemployed. Arrest appeared to be an effective deterrent to future violence amongst the employed, married and white, although the long-term deterrent effect (more than one year) was not strong. (Roberts and Kurst-Swanger, 2002, U.S.; Maxwell, Garner and Fagan, 2001, U.S; Weisz, 2001, U.S.; Berk et al., 1992, U.S.)

After a review of all the SARP studies, one of the original researchers recommended replacing mandatory arrest with a policy of mandatory action on the part of the police. Mandatory action could include providing transportation to a shelter or a detoxification center, granting the victim the option to decide if an arrest should be made or providing suggestions for victim protection. (Ursel, 2001, Can.; Mills, 1998, U.S.)

The SARP studies remain controversial, with researchers continuing to debate the results. The methodologies and results have all been scrutinized and many articles have been written, some lauding and some criticizing the results. (Buzawa and Buzawa, 2003, U.S.; Ursel, 2001, Can.; Worden, 2000, U.S.) Among the most persuasive of the criticisms is the observation that the studies were set in different communities, in which community agencies and criminal justice institutions all took different approaches to domestic violence, and yet no consideration was given to how those broader factors impacted the results. Academics point out that arrest does not take place in a vacuum and that its effect may be altered depending on such factors as whether it is followed by vigorous prosecution and appropriate sentences and whether community supports are in

place for victim, offender and other family members. (Buzawa and Buzawa, 2003, U.S.; McGuire, 1998, U.S.; Tolman and Weisz, 1995, U.S.)

In 2001, Maxwell, Garner and Fagan (U.S.) published an article in which they re-analysed the SARP data in order to provide "a more consistent, more precise and less ambiguous estimation of the impact of arrest." (p.2) They found that arresting batterers was consistently related to reduced subsequent aggression against female partners, although the effect was modest. They also found that a minority of the suspects continued to commit intimate partner violence, regardless of the intervention they received, and that a majority of the suspects discontinued their violent behaviours even without arrest. The researchers suggest that further research is necessary to accurately predict repeat offenders and find methods of helping their victims. They also observe that policies requiring arrest for all suspects may unnecessarily divert community resources away from the work of identifying and responding to the worst offenders and the victims most at risk.

Pro-Arrest Policies

Canadian Policies

Despite the inconsistencies in the research results, the police arrest studies were influential in the development of arrest policies across North America. According to the Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.), all Canadian jurisdictions now have some type of charging policy regarding spousal abuse. The Working Group concludes that although some jurisdictions refer to the policies as mandatory arrest and some call them pro-arrest, "all jurisdictions continue to support a similar criminal justice response, the primary objective of which is the criminalization of spousal abuse." (p. 11). The Working Group goes on to say that all Canadian policies have the following objectives in common:

- General deterrence, by sending a strong and clear message to society that spousal abuse is wrong
- Specific deterrence, by seeking to prevent the individual abuser from committing further acts of spousal abuse
- Removing responsibility (and blame) for the decision to lay charges from the victim
- Increasing the number of charges laid in reported spousal abuse cases
- Increasing the reporting of incidents of spousal abuse
- Reducing re-offending

The Working Group also identifies the following as the common elements of arrest policies across Canada:

Test – Chargers should be laid where there are reasonable and probable ground to believe an arrest has been committed, regardless of the wishes of the victim. In a few provinces, the decision to charge lies with the Crown. In Alberta, police can decide to lay charges.

Investigation – Police officers who respond to domestic violence calls must conduct a complete investigation and collect all available evidence from all sources. Some jurisdictions have developed tailored investigation forms for spousal abuse cases.

Withdrawal/stay of charges – Withdrawing or staying of charges falls within the purview of the Crown.

Release of an accused from custody by the officer in charge – Release of the abusive partner/accused should be made subject to appropriate conditions including, for example, non-communication orders, firearms prohibitions, and drug or alcohol prohibitions. Some jurisdictions require victim notification of the release of the accused as well as of any accompanying conditions.

Victims' Services – Most jurisdictions instruct police to advise victims of available victims' services, to direct them to such services or to do both.

Calgary operates under a pro-arrest policy. If officers are called to a domestic violence incident, and there are reasonable and probable grounds to believe that a Criminal Code offence has been committed, they must lay charges.

Despite the fact that some form of domestic violence arrest policy is in effect in most jurisdictions across Canada and the United States, the literature is still divided on the subject of mandatory and pro-arrest policies. The following is a brief synopsis of arguments on both sides.

Arguments Against Mandatory and Pro-Arrest Policies

One of the most common arguments against mandatory and pro-arrest policies is that they are often used to arrest low-income, marginalized offenders and therefore have a greater effect on those families and communities. For example, Snider (1998, Can.) says that "lower income, visible minority and Aboriginal women have paid a heavy price for mandatory criminalization." (p.146) Currie (1998, Can.) also questions the use of the legal system, and such measures as pro-arrest policies, to address violence against women, pointing out that many of these policies have had a disproportionate impact on poor families and men and women of colour.

Academics have also criticized mandatory and pro-arrest policies on the grounds that, although many women want the police to intervene in violent situations and put an end to particular abusive incidents, they do not necessarily want the offender to be arrested. In such cases, women may have very strategic reasons for not desiring an arrest (e.g. the offender may lose his job and the family its main source of income). According to this argument, mandatory and pro-arrest policies disempower the victim by taking away her ability to participate in the arrest decision. (Melton, 1999, U.S.; Sacuzzo, 1999, U.S.)

Other arguments raised against mandatory and pro-arrest policies include: they lead to more violence against victims; they deter victims from reporting abuse because they

don't want their abusers arrested; they cause offenders to focus their violence on other victims; they lead to police frustration and repressive call screening; they increase the number of victims who are uncooperative with the prosecution; they lead to the loss of the primary income earner for the family. (Buzawa and Buzawa, 2003, U.S.; Roberts and Kurst-Swanger, 2002, U.S.; Sacuzzo, 1999, U.S.; Melton, 1999, U.S.) As well, critics argue that such policies lead to dual arrests, in which both the victim and the offender are arrested. The issue of dual arrests will be discussed in further detail later in this section.

Many of the critics of mandatory and pro-arrest policies advocate for alternative policies. As noted above, Sherman, one of the original SARP researchers, has called for a policy of mandatory action on behalf of the police, with the action taken depending on the circumstances of the case. (Ursel, 2001, Can.; Mills, 1998, U.S.) Others argue for a presumptive, as opposed to mandatory, arrest policy, which guides officers' use of discretion in the making of an arrest. (Buzawa and Buzawas, 2003, U.S.) Snider (1998, Can.) calls for the adoption of a regulatory pyramid, with persuasion or self-sanctioning as the first goal, deterrence through community-level shaming as a second goal and incapacitation as a final, least-employed option.

Arguments for Mandatory and Pro-Arrest Policies

Interestingly, the argument that pro-arrest policies and similar criminal justice initiatives unduly burden marginalized populations is not clearly supported by the literature which focuses on those populations. For example, McGilivray and Comaskey (1998, Can.) interviewed 26 female Aboriginal victims of intimate violence. They found that the women were reluctant to embrace First Nations community-based alternatives to the justice system and instead wanted longer sentences, input into sentences, effective protection order enforcement and effective and mandatory abuser treatment. As well, Flynn and Crawford (1998, Can.), in writing about the experiences of Caribbean women in Canada, conclude that mandatory charging and rigorous prosecution are essential for securing women's safety within the home. They recommend that arrest policies be augmented with anti-racist, anti-sexist police training, prosecutorial and judicial guidelines, support services for victims and rehabilitation and counseling for batterers. Ursel (2001, Can.) points out that the majority of domestic violence calls to police in Winnipeg come from communities with large low-income and Aboriginal populations. She argues that these women call the police because they have no access to alternatives and "to remove that support would result in putting many more women's lives at risk, particularly low income or Aboriginal women." (p.17) While she acknowledges the high number of Aboriginal offenders caught up in the justice system, some of them Aboriginal men charged with domestic violence related offences, she adds that "to try to reduce the over-representation of Aboriginal women in FVC {Family Violence Court} by reducing the number of arrests would have the effect of reducing protection to Aboriginal women and children." (p. 17) She also points out that a return to a policy of police discretion might mean a return to "past conditions in which discretion frequently translated into non response." (p.18)

Sacuzzo (1999, U.S.) makes an interesting argument for mandatory and pro-arrest policies, placing them in the context of therapeutic jurisprudence (discussed in the specialized courts section of this chapter.) He says therapeutic jurisprudence can be used to "bring some order to the debate over mandatory arrest." (p. 780) According to Sacuzzo, a therapeutic jurisprudence approach examines the effect of any given criminal justice response from the standpoint of its effect on the batterer, the battered person and society. He concludes that mandatory arrest sends positive and constructive messages to the offender, battered person and society that domestic violence is a crime that will not be tolerated and that the offender, not the victim, is responsible and at fault. "If the message serves to empower the battered person, pin responsibility on the batterer and send a message to society that domestic violence will not be tolerated, then mandatory arrest should be embraced regardless of statistical studies." (p. 775)

This focus on the important message mandatory arrest relays to the community is shared by other writers. Weisz (2001, U.S.) views arrest as an important part of any domestic violence intervention because of the message it sends to the victim, the abuser, their children and the community about society's intolerance of domestic violence. She describes arrest as "morally correct" because it "treats domestic violence as a serious crime that is comparable to other crimes." (p. 3)

Ursel (2001, 1998, 1997, Can.) argues that the current "disenchantment" with arrest and many other criminal justice policies focused on domestic violence stems from "unrealistic measures of success, applying an old concept of justice to a new social issue which does not fit well within the tradition paradigm." (2001, p.6) She says police must redefine success from a short-term outcome (conviction) to a longer term process (redressing an imbalance of power.) In addition, researchers must stop focusing on one single measure of success, whether arrest prevents future battering, and focus on the role of arrest in the addressing the complexities of domestic violence. In Ursel's view, the power of arrest is that it stops the current violent episode and redresses the power imbalance in the relationship, if only temporarily. "The debate within the academic literature on whether or not arrests deter future violence does not speak to the most pressing problem of deterring the escalation of ongoing or imminent violence. This is the outcome measure most appropriate to assessing police intervention." (2001, p. 22) Arrest may not immediately decrease recidivism but it engages the victims and the police in a process, one which may take several years and many more police interventions, but which may eventually lead to the cessation of violence.

The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) concludes that "the pro-charging policies adopted in Canada during the 1980s have significantly contributed to the strengthening of the criminal justice system's response to spousal abuse." (p. 20) The Working Group points out that although the Canadian policies are often described as pro-charging, they are actually only "the applicable standards for all criminal conduct." (p. 21) That is, whenever there is evidence of any Criminal Code offence, the suspected offender must be arrested. Applying those standards clearly to domestic violence cases helps to make a "critical distinction between the criminal justice

system's treatment of spousal abuse as a 'criminal matter' and its historical treatment of spousal abuse as a 'private matter.'" (p. 21)

Actual Police Practices

A subset of the literature in this area focuses on actual law enforcement practices, particularly how police departments do or do not operationalize arrest policies and what factors influence the decision to arrest. Most of this work has been conducted in the United States, although some has taken place in Canada. The following is a brief summary of some of the research results. The American research is presented because it addresses some issues relevant to the HomeFront project, such as the need for a co-ordinating body and the efficacy of pro-arrest policies. However, as the Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) has pointed out, "research from jurisdictions outside Canada may not always be directly comparable to Canadian realities." (p. 14)

American Research

There is some indication in the literature that jurisdictions with pro-arrest policies and the mechanisms in place to support those policies have higher arrest rates for domestic violence cases. The first three studies described below all found an increase in arrests in pro-arrest communities, although evidence of the link between those arrests and recidivism remains inconclusive. Three of the studies reviewed below also highlight the need for a coordinating agency and/or police training. It is interesting to note that, even in jurisdictions with pro-charging policies, many domestic violence incidents still do not result in arrest. And, as two of the studies described below indicate, those jurisdictions with little support for pro-arrest policies appear to have very low arrest rates.

Impact on Arrest Rates

Jones and Belknap (1999, U.S.) conducted a study in Boulder, Colorado, a jurisdiction with a pro-arrest policy in place since 1986 and in which one agency, the Domestic Abuse Prevention Project (DAPP), has been created to oversee systemic responses to intimate partner battering. In Boulder, if there is probable cause that a domestic violence crime has been committed, police officers must not only arrest the defendant but also jail him or her, regardless of the victim's wishes. The researchers found a far more serious police response to batterers than that observed in previous studies, as almost three-fifths of perpetrators were jailed. As well, extralegal factors such as victim behaviour and offender characteristics seemed to have less impact on decision-making than reported in previous studies. The authors point to the importance of an umbrella, in-house agency designed to oversee system-wide responses to battering.

Belknap and Hartman (2000, U.S.) used data collected by advocates for battered women in two agencies in a large metropolitan area of the United States. Police response differed according to which victim advocacy agency was involved, whether the responding department was the major urban department (which has a pro-arrest policy) or

one of the surrounding smaller departments (without pro-arrest policies), whether a threat of violence was a reason why the police were called and whether a weapon was involved. Findings supported the hypothesis that a pro-arrest policy increases the likelihood of arresting abusers. In the model predicting whether the abuser was arrested, departmental affiliation was the only significant variable. Also, officers in the department with a pro-arrest policy were more likely to be reported by victim advocates as both sensitive to victims' needs and discussing options with victims.

Mignon and Holmes (1995, U.S.) studied data from 24 Massachusetts police departments on 861 domestic violence cases. The study took place within months of implementation of a new mandatory arrest law for violations of restraining orders and the researchers found that arrests increased fivefold after the passage of the law. When a restraining order was in effect, offenders were arrested almost half of the time. The arrest decision was affected by injury to the victim, use of a weapon, use of alcohol and presence of a witness. The researchers found that police training was crucial to the implementation of the law.

Fyfe et al. (1997, U.S.) analysed the responses of police in Chester, Pennsylvania to 392 felony-grade assaults by persons whose identities were known to victims and police. In contrast to the results described above, this study found that arrests occurred in only 13% of male-on-female spousal assaults and 28% of other assaults. The researchers determined that the differences were not attributable to other variables. They conclude that results reported by researchers studying progressive police jurisdictions that volunteer to participate in domestic violence studies may not be generalizable to the great majority of police agencies that have not welcomed such scrutiny.

Bourg and Stock (1994, U.S.) examined domestic violence arrest statistics in a sheriff's department that did not utilize a community approach and provided little police training on domestic violence. In reviewing all domestic violence reports (1,870) over a 12-month period, the researchers found that less than 1/3 (28.8%) ended in arrest. Even the most serious charges were more likely to end without an arrest (62.6%) than with an arrest (37.4%).

Recidivism

A small percentage of recent arrest studies have focused on the link between arrest and recidivism. Likely in response to criticism of the SARP research, these studies have also attempted to gauge the impact of other factors (such as prosecution, disposition or a coordinated community response) on the re-offending rate. Unfortunately, as with the SARP research, the results are contradictory.

Mears et al. (2001, U.S.) conducted a complex study which attempted to examine the impact of factors such as age, prior victimization, prior drug use, race/ethnicity and community-level socioeconomic context, as well as three different criminal justice interventions (protection order alone, arrest alone or protection order with arrest), on recidivism. The researchers used data from court and police files in a large urban county

in Texas and collected information on 336 domestic violence cases sampled from January, August and October of three years (1990-1992). Police records were used to track recidivism within two years of the legal intervention. The researchers found that prior drug use, race/ethnicity and community-level income were associated with time to re-victimization. No one legal intervention was more effective than the other in reducing the prevalence or time to re-abuse.

Tolman and Weisz (1995, U.S.) explored the effectiveness of a coordinated community intervention designed to reduce domestic violence in DuPage County, Illinois, a jurisdiction with a pro-arrest policy. The researchers used police reports on all domestic violence calls, not just those which resulted in arrest, as well as state disposition summary forms from the state attorney's office. They examined the effects of arrest and prosecution on subsequent police calls and arrests within an 18-month period following the initial incident and concluded that arrest significantly deterred subsequent domestic violence incidents. The recidivism rate was 35% for those offenders not arrested, as compared to 25% for those arrested at the scene. The deterrent effect of arrest did not deteriorate over the 18-month period and was most pronounced for those offenders who had a previous history of police involvement for domestic violence. Recidivism rates were also lower for those men who were prosecuted and convicted, as compared to those who were not arrested, who were found not guilty or whose cases were dismissed, but the differences were not statistically significant.

Arrest Decisions

Several studies have focused on the factors influencing the police decision to arrest. The results of this research have been somewhat inconsistent although there is some indication that situational variables influence the decision more than officer, offender or victim characteristics. For example, Feder (1999, U.S.) found that victims' preference for an arrest was highly predictive of police taking the defendant into custody. However, while Feder found that most officer characteristics were not significant, number of years on the force negatively related to arrest decisions. In addition, the officer's attitude towards women, his knowledge of departmental policy on domestic assault and his holding a pro-police intervention position positively related to an arrest outcome. Robinson, Chandek and Meghan (2000, U.S.) found a positive relationship between suspect presence and the likelihood of an arrest occurring. As well, where the suspects were co-habitiating, arrest was more likely. If the call occurred near the end of an officer's shift, the probability of arrest decreased, and there was a significant negative relationship between victim injury and arrest. The authors speculate that there may be a link between victim injury and fear of retaliation, leading to officer acquiescence to victim's wishes. Kane (2000, U.S.) studied 468 domestic violence incidents in Boston in which the offender remained at the scene to test whether the violation of a restraining order increased the likelihood of arrest. He found that risk and injury to the victim was the strongest predictor of arrest and that, under the highest risk conditions, the arrest rate was 75.8%. Under low-risk conditions with a restraining order violation, the arrest rate was 44%. When the offender presented little risk to the victim and there was no restraining order violation, the arrest rate was 12.1%.

Buzawa and Buzawa (2003, U.S.), in reviewing the literature in this area, highlight a number of factors which have been identified in various studies as affecting the police decision to arrest. They include: offender's presence at the scene, who called the police, presence of weapons and officer perceptions of risk, injuries and the threat of injury, presence of children, victim-offender relationship, victim preferences for arrest, police evaluation of victim traits and conduct, and assailant behaviour and demeanor. They point out that none of these factors relate to probable cause and therefore should not be considered in the arrest decision. "The reality of how police organizations actually respond to proarrest statutes and policy directives remains problematic and, at times, unpredictable." (p. 173)

Canadian Research

Canadian researchers have not focused on pro-arrest policies to the same extent as their American counterparts. The little research which has been conducted indicates varying degrees of support for, and compliance with, pro-charging policies amongst Canadian law enforcement officers.

Rigakos (1998, 1997, Can.) administered a questionnaire to 45 police officers in Delta, British Columbia in order to obtain further information on enforcement practices of police officers when responding to breaches of civil restraining orders and Canadian Criminal Code peace bonds. Delta police officers must arrest in cases of domestic violence where there are grounds to believe that an offence has occurred. The questionnaire asked the officers to recall how many times during the time period of June 1993 to June 1994 they were presented with restraining orders or peace bonds at domestic calls and how they responded to those orders. When officers indicated there was no legal ground for arrest because the offender had left the scene, the incident was removed from the sample. Of the remainder, Delta police officers arrested in only 21% of (civil) restraining order breaches and 35% of (criminal) peace bond breaches. The most important factors compelling police to arrest for breached protection orders, where the complainants' safety was at issue, were signs of forced entry, violent histories and signs of struggle. "The startling finding here is that officers appear more attuned to property damage than evidence suggesting that an assault may have occurred. Officers rated women's request for arrest, on average, as only a 'slightly important' factor, ranking sixth out of 12 situational factors influencing arrest decisions." (p. 85) Many of the officers told Rigakos that battered women are reluctant witnesses, but his examination of court records found that only one in ten women testifying in spousal assault cases in 1993 was listed as uncooperative. Rigakos also noted a persistent perception among the police officers that victims were cunning, calculating liars who deserved abusive partners and were ungrateful when "rescued."

Hannah-Moffat (1995, Can.) interviewed 17 Toronto police officers regarding Metropolitan Toronto's pro-charge policy. She found that only six of the 17 officers agreed with the policy, with two undecided. The younger, less experienced officers were most likely to disagree with the policy. Most officers indicated that they had problems

complying with the policy and that they still felt entitled to exercise discretion when listening to women's allegation of abuse. "Overall, most of the officers maintained that their 'general impression' of the situation and their skills at objectively 'weighing both sides of the argument and the evidence' were instrumental to their decision-making." (p. 38) Hannah-Moffat also found that most officers were suspicious of victims and portrayed them as at least partially responsible for their situations. They also indicated that they viewed the victim as the chief obstacle in the judicial process.

Jaffe et al. (1991, Can.) studied the effectiveness of a pro-arrest policy in London, Ontario. He found that in 1979 (pre-policy), police officers laid charges in only 3% of incidents involving wife assaults. By 1983, this figure had risen to 67% and by 1990 it was at 89%. Interviews with 90 victims indicated a high level of satisfaction with police response. Three quarters of victims (74%) said that the police responded quickly and 65% said they were satisfied with the advice they received. In addition, 87% said they would call the police again. By contrast, a 1979 survey found that only 48% of victims were satisfied with the police response. Finally, surveys distributed to police in 1985 and 1990 showed growing support for the policy. In 1990, more than half (52%) of the officers felt that the policy was effective, compared to one-third in the 1985 research. Police officers were asked to rank the factors that influenced their decision to lay charges. Corroborating evidence was the most important factors, followed by the willingness of the victim to testify and seriousness of victim injuries.

Brown (2000, Can.) conducted a review of research on arrest and prosecution policies, on behalf of the Department of Justice Canada. He concludes that more research is needed to assess the consistency with which Canadian police are complying with charging policies across the country and to identify the factors which lead police officers to make arrests in some situations and not in others. "Until further research in these areas is undertaken, it will be difficult to formulate any hard conclusions as to the extent to which mandatory charging policies have been 'accepted' and properly adhered to by the police officers responsible for implementing them." (p. 8)

Dual Charges

Some of the pro-arrest research has found an increase in the number of dual arrests (both parties charged) in those jurisdictions which adopt pro-charging policies. American research has shown wide variations in dual arrest rates, with a high of 23% in Connecticut to a low of 5.5% in Rhode Island. (Buzawa and Buzawa, 2003, U.S.) The Woman Abuse Council of Toronto undertook a preliminary study of dual arrests in Toronto in 2000-2001 and found a significant increase in police-laid charges against women in domestic violence situations, from an average rate of 1.5 women per month from April 1 to December 31, 2000 to 11.7 women per month from April 1 to June 30, 2001. (Woman Abuse Council of Toronto, 2001, Can.) On the other hand, Ursel found that Winnipeg's pro-arrest policy did not make a significant difference in the dual arrest rate. It was 6% before the policy was instituted and rose to only 7% after policy implementation. (Ursel, 2001, Can.)

Regardless of the numbers, however, must academics and activists are troubled by the issue of dual arrest. As Ursel (2001, Can.) says, "if a woman's call for help results in her arrest, police punish rather than protect her. This is clearly not the intent of the Zero Tolerance Policy. This could seriously discourage the particular woman from calling the police again when she is at risk and could operate as a deterrent to many women who become aware of the possibility of a dual arrest." (p. 20) Ursel goes on to say that dual arrests also have a negative effect "on the pursuit of justice within the courts" as they usually lead to stays of proceedings, because the accused has a strong defense of a consensual fight. The Woman Abuse Council of Toronto adds that dual arrests send abusers a very clear message that they can "continue their abusive behaviour with impunity." (2001, p. 2)

Several reasons have been put forward in the literature for the increasing dual arrest rates. The Woman Abuse Council of Toronto found that the issue was attributable to ambiguous police practices and individual police discretion/bias. According to the Council, the Toronto Police Service does not appear to have an official policy on dual arrest in domestic violence situations or any policy guidelines pertaining to self-defense or primary aggressor determinations. Others point out that police are often overworked and it may be easier for them to arrest both parties than to try to figure out the dynamics of domestic violence situations. (Miller, 2001, U.S.) Similarly, police officers may be resentful of the pro-arrest laws and using dual arrests to "further punish women that burden the police with domestic 'problems.'" (Buzawa and Buzawa, 2003, U.S., p. 137.) Some scholars maintain that while police are now trained to make an arrest, rather than use their own discretion to determine the best approach, they may not be trained in the complexities of domestic violence. The police are required to assess the facts regarding the commission of an act of violence, and hence a crime, but not to explore the intricacies of a couple's relationship and history of abuse. (Buzawa and Buzawa, 2003, U.S.; Hirschel and Buzawa, 2002, U.S; Miller, 2001, U.S.) The idea has also been put forward in the literature that police are discouraged from arresting women, even when they are the primary aggressors, so they arrest both parties in cases where only the woman should be charged. (Hirshel and Buzawa, 2002, U.S.)

Academics are skeptical that the increase in dual arrest indicates a real increase in the use of violence by women against men. Miller (2000, U.S.) interviewed 37 criminal justice professionals and social service providers in the United States and found that not one of them believed that women's violence was increasing. The interviewees argued that women's violence is not part of a power-control dynamic, as is often the case with male violence against females, but instead is reactive or protective. According to Hirschel and Buzawa (2002, U.S,) women are more likely than men to use domestic violence in self-defense and women may initiate violence in some cases as "a tactical strategy to avoid an imminent violent act against them." (p.1459)

This is not to say, of course, that there are no female abusers or male victims. HomeFront statistics indicate that about 15% of the victims coming before the domestic violence court are male. As Patricia Pearson has pointed out (1997, Can.), there are documented cases of women abusing women in lesbian relationships and women abusing

men in heterosexual relationships. Pearson adds that this is a subject which has, until recently, been ignored in the literature. Although some attention is now being paid to the issue of violent women, research on the topic is still scant.

Primary aggressor policies are the solution most often put forward to deal with dual arrest. (Ad Hoc Federal-Provincial-Territorial Working Group, 2003, Can.; Osthoff, 2002, U.S.; Hirschel and Buzawa, 2002, U.S.; Ursel, 2001, Can; Woman Abuse Council of Toronto, 2001, Can.; Miller, 2001, U.S.;Sacuzzo, 1999, U.S.) Such policies direct police officers to assess who is the offender and who the victim, both in the relationship and in the current incident, and encourage them to use information about the history of abuse to assist in distinguishing between defensive and offensive injuries. According to Hirschel and Buzawa (2000, U.S.), declines in dual arrests have been noted in some jurisdictions after the implementation of such policies and/or the institution of training. Ursel (2001, Can.) also suggests a procedure in which the police note all of the information from the complainant making the counter allegation and pass that information on to the Crown for an opinion. Prosecutors do play a role in deterring dual arrests in other jurisdictions. For instance, in San Diego, prosecutors have a policy on mutual arrest cases "which makes it clear that police officers who invest their time in repeated and indefensible mutual arrests will see no criminal prosecution and will be held accountable within the community response task force or police agency's internal affairs division." (Gwinn and O'Dell, 1993, p. 1518) Ursel (1998, Can.) also talks about the need for specialized domestic violence units which allow police officers to better understand and address domestic violence.

Victim Feedback

Researchers appear to be increasingly interested in victims' perceptions of the criminal justice system, as well as their reasons for initiating contact with that system. Several studies have collected data from victims to determine the nature of their interactions with the police, their levels of satisfaction with those interactions and their support for pro-charging policies. Again, the bulk of this research has taken place in the United States, although some has been conducted in Canada and the United Kingdom.

American and United Kingdom Research

One focus of many of these studies is whether, and why, women call the police. Coulter et al. (1999, U.S.) studied 489 women entering a shelter and found that almost half did not seek help from the police. Fleury and her partners (1998, U.S.) collected data from 137 women at a battered women's shelter and found that, while nearly all of the women (89%) reported that they had needed the police at least once, only two-thirds (67%) indicated that they had had contact with the police about the violence. Women gave multiple reasons for not calling the police. The most frequently cited reasons included situational barriers, such as being physically prevented from using the telephone or being threatened with more violence. Only 3% of the sample reported that shame, embarrassment or love were their sole reasons for not calling the police. An interesting study by Felson et al. (2002, U.S.) also sheds some light on women's motivation for

calling the police. The researchers examined reasons for reporting and not reporting domestic violence to the police, based on data from the National Crime Victimization Survey. Self protection was the most common reason for calling the police. Perceptions that incidents were private or trivial was the most common reason for not calling the police. The researchers found that victims were not as reluctant to report domestic violence as conventional wisdom would lead one to believe. They found that fear of reprisal is an infrequent motivator of victim behaviour and, in fact, fear is a much more important motivation for reporting male partners than for not reporting. "The decision-making process underlying the response to assaults is more complex than the literature suggests. Victims' greater concerns for protecting themselves from domestic assaults, and their perceptions of these assaults as particularly serious (at least if perceived as 'criminal'), offset concerns for privacy and other inhibitory factors." (p. 22)

An important subset of this research focuses on the outcomes desired by victims when the police are involved. Results are, however, inconclusive. In a British study, Hoyle and Sanders (2000, U.K.) interviewed 65 women who had contact with the police as a result of domestic violence. They found that over half of the women (31) wanted the offender arrested, with a large minority (22) not wanting the police to arrest. And, of those who wanted an arrest, the majority did not want prosecution. "They wanted an arrest without any further criminal justice intervention to 'teach him a lesson" or to resolve the immediate situation temporarily."(p. 22) In seeming contradiction to this, Yegidis and Renzy (1994, U.S.) conducted an exploratory study of the experiences of 51 battered women in four spouse abuse shelters in a Florida county with a preferred arrest policy. Despite this policy, the police arrested only 12 abusers, although 36 women wanted their abusers to be arrested. When asked to describe how frequently they would want spouse abusers arrested, 40 said they wanted an arrest made in every abusive incident. Furthermore, 39 believed that arresting abusers would reduce recidivism.

Researchers have reported differing levels of victim satisfaction with police response to domestic violence. Coulter et al. (1999, U.S.) found that although their qualitative data indicated police officers showed variable levels of support, the majority of respondents described officers in positive terms. Lewis et al. (2000, U.K.) conducted in-depth interviews with 143 Scottish victims of domestic violence and found that a majority (55%) were happy or very happy that the police were involved while one-third (37%) were unhappy or very unhappy. The authors speculate, however, that his figure might relate to the victims' unhappiness that the assault had taken place and the police were required, as 81% of the interviewees found the police helpful or very helpful. Byrne et al. (1999, U.S.), working from a sample of 284 female victims of physical or sexual assault, found that those women were consistently less likely to report satisfaction with professionals involved in the criminal justice system, as well as the criminal justice system in general, than non-partner assault victims. Stephens and Sinden (2000, U.S.) interviewed 25 victims whose assailants had been arrested. For the majority of participants with previous and multiple encounters with law enforcement, nearly all described negative experiences with the police that had occurred prior to the arrest event. Participants tended to have a more positive assessment of police demeanor during the arrest event. Complaints about the police included: officers had been dismissive of the

gravity of the situation and failed to show concern for victims; police were unwilling to spend time listening to participants but instead limited the interaction to a narrow focus on legal aspects of the participants' acts; police made threats to arrest victims or take away the children.

Smith (2001, U.S.) surveyed 83 women in battered women shelters in a Midwestern states, in order to ascertain their support for a range of domestic violence laws and policies. Mandatory arrest was the third most supported intervention, favoured by 75% of respondents, right after the Victim Advocate Program (87%) and the creation of a specialized court (88%). Interestingly, the women believed the laws and policies were more likely to benefit others, rather than themselves. An earlier study by Smith (2000, U.S,) surveyed 241 battered women in eight states on similar topics. It found that while the women supported the adoption of the mandatory interventions, fewer seemed likely to perceive a benefit from the interventions and some believed they would be less likely to report future violence as a result of these interventions. According to the author, these findings "raise the specter that mandatory laws may have the unintended consequences of deterring victims from initiating legal … interventions." (p. 1398) Smith also puts forward several possible reasons why the respondents might think that the laws would not benefit them. These include the fact that they may think themselves helpless before the abusers' overwhelming power or that mandatory arrest and prosecution may not be congruent with their goals of simply stopping the violence and resolving the immediate conflict.

Researchers in this area have also made several recommendations for improving police interaction with victims of domestic violence. These include increased training in domestic violence issues for police officers, policy development that provides law enforcement officers with a structured format for addressing domestic violence and a coordinated community response that includes an arrest and incarceration policy. (Coulter et al., 1999, U.S.; Fleury et al.,1999, U.S.).

Canadian Research

Plecas, Seggar and Marsland (2000, cited in Brown, 2000, Can.), in a survey of 74 victims of domestic assault in Abbotsford, British Columbia, found widespread support for a pro-arrest policy and the manner in which it was implemented. They reported that 86% of victims agreed with the policy and the same percentage were satisfied with the way in which police dealt with their cases. It is important to note that, although many of the victims agreed with the policy, 40% said that they did not wish to proceed with the prosecution of the offender. This issue will be explored in further detail later in this chapter.

Roberts (1996, cited in Brown, 2000, Can.) also found high support for a pro-charging policy among victims of domestic violence in the Yukon. Similar to the study cited above, 85% of victims felt that the policy was a good one and 68% indicated that they would call the police again for further assaults. This reaffirms the Jaffe results, (1991, Can.) discussed earlier, in which 65% of victims were satisfied with the advice they

received from police operating under a pro-charging policy and 87% said they would call the police again.

Summary

One could almost say that the contradictory findings of the police arrest studies of the 1980s set the tone for all future research in this area, as so much of it has been inconsistent and contradictory. The unfortunate result of so much inconclusive data is that many debates endure unresolved. In particular, the academic community continues to discuss the merits and disadvantages of arrest policies, with little evidence that a conclusion is in sight. The research does seem to indicate, however, that pro-arrest policies lead to increased arrest rates. What is not clear is how consistently and effectively such policies are implemented across jurisdictions and whether increased arrest rates lead to decreased recidivism.

The victim feedback studies provide some useful insight into victims' reasons for involving law enforcement and the outcomes they desire from police involvement. Much of this research serves to chip away at common stereotypes of battered women as helpless, low-functioning individuals who are too embarrassed or ashamed to involve police officers in their situations. Rather, many of these women are very motivated to protect themselves and their children from further violence and make strategic decisions which they feel will lead to the best outcomes for their families. Although there is definitely a subset of abused women who do not call the police and do not want their partners arrested, others are clear in their expectations of protection from the criminal justice system. Victims' relationships with the system and the various reasons they involve police and prosecutors are explored in further detail in the upcoming section.

All of this research underlines the complex relationship between domestic violence and the criminal justice system. There are no easy answers to be found in the research or in the system. As Jane Ursel says, perhaps we are asking the wrong questions and looking at the wrong solutions, when we focus only on such outcomes as convictions and recidivism. Ursel point out that women's movement away from domestic violence is a long, circuitous undertaking and the criminal justice system is only part, albeit an important part, of that process. Therefore, she says, police involvement in domestic violence will only be effective if situated within a web of intervening and interacting criminal justice and social service agencies. "We must give up any search for single solutions and/or single institutions to blame. Without becoming complacent and uncritical, our criticisms must be informed by the complex issues involved." (Ursel, 1998, p. 80)

SECTION SIX: PROSECUTION

Introduction

Historically, researchers have focused less on the role of prosecutors in addressing domestic violence than on that of the police. This is starting to change, however, as academics and community practitioners become more cognizant of the importance of studying all components of the criminal justice system and analyzing their combined impact on domestic violence. This section reviews the literature related to prosecution. It is divided into six sections: historical role of prosecution in domestic violence; Canadian prosecution policies; the Winnipeg model; the debate over prosecution polices; prosecution studies; and a summary.

Historical Role of Prosecution in Domestic Violence

In many respects, the attitudes and activities of prosecutors in addressing domestic violence have mirrored that of their law enforcement counterparts. As Roberts and Kurst-Swanger put it (2002a, U.S.), "just as the police have been reluctant to intervene in cases of domestic abuse, family and criminal courts have been plagued by the same lack of knowledge about the dynamics of domestic violence." (p. 127) As a result, until the justice system reforms of the 1980s and 1990s, few domestic violence cases were prosecuted and those that did go forward were not treated as severely as cases involving violence amongst strangers. (Buzawa and Buzawa, 2003, U.S.; Ursel, 2001, Can.)

Many systemic and societal reasons have been put forth in the literature to explain prosecutorial inaction in the area of domestic violence. In describing the Winnipeg experience, Ursel (1997, Can.) points out that, prior to reform, the structure of the system actually punished Crown Attorneys who invested time in domestic violence cases. Success was defined as conviction and domestic violence cases were "low profile, messy cases with minimal chance of conviction because of the ambivalence of the victim/witness concerning her interest in testifying." (p. 271) Senior Crowns usually delegated these cases to junior prosecutors. Given the focus on conviction and the importance of victim testimony to that outcome, Crown Attorneys would "often walk out of court after an unsuccessful case angrier with the victim than the accused." (p. 271) Buzawa and Buzawa (2003, U.S.) put forward a number of additional reasons why prosecutors were, and in some cases remain, unwilling to prosecute domestic violence cases. They include: a bias against relationship cases in which offender and victim know each other; the perception that domestic violence is a "low-status" offense which does not need to be treated as seriously as other crimes; and real or perceived victim reluctance to testify.

The issue of perceived victim reluctance to testify, which has long been a stumbling block in the criminal justice system's treatment of domestic violence, has been addressed by several academics. Dawson and Dinovitzer (2001, Can,) talk about the complex relationship between prosecutors and victims and the "self-fulfilling prophecy" in which Crown Attorneys' ambivalence towards victims, and apprehension about victim non-

cooperation, lead the victim to feel uncomfortable and intimidated and therefore less likely to participate in the prosecutorial process. Buzawa and Buzawa (2003, U.S.) make a similar point when they say that prosecutors sometimes set up difficult screening processes meant to test the victim's commitment to prosecution and that these barriers, and the attitudes which underlie them, often discourage even those victims originally committed to prosecution. "Even more women drop charges or fail to appear because of the indifference or cynicism of prosecutors and judges or the erection of Byzantine barriers that 'test' her commitment to prosecute." (p. 189)

Canadian Prosecution Policies

As was the case with law enforcement, growing societal concern about domestic violence and pressure for a stronger criminal justice response led to institutional reform in the area of prosecution. In the United States, the outcome was the implementation of no-drop or mandatory prosecution policies in many jurisdictions. Under a no-drop or mandatory prosecution policy, prosecutors cannot drop the charges against a defendant at a victim's request or at their own discretion. Instead, prosecutors must demonstrate a clear lack of evidence to proceed; victim non-cooperation cannot be part of the rationale for dropping charges. (Buzawa and Buzawa, 2003, U.S.) Mandatory prosecution policies are not as prevalent in Canada, where some communities have opted instead for a focus on rigorous prosecution. Winnipeg, in particular, has developed an innovative prosecution policy which will be described in some detail later in this section. (Ursel, 2001, Can.; MacLeod, 1995, Can.)

According to the Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.), Canadian pro-prosecution policies have several objectives:

- Promoting more rigorous prosecution of cases
- Reducing case attrition by reducing the number of withdrawals or stays of charges
- Promoting victim co-operation in the prosecution
- Reducing re-offending

The Working Group also identified common elements of prosecution policies across the country:

Test – A spousal abuse case should be prosecuted where there is a reasonable expectation or prospect of conviction (based on the evidence) and where it is in the public interest to prosecute.

Reluctant and recanting witnesses – In most jurisdictions, the decision to prosecute is made independently of the wishes of the victim. The fact that the victim is reluctant to cooperate with the prosecution of the accused should not be determinative of the decision to prosecute where independent evidence is available. Compelling the victim to testify or seeking to find a victim in contempt for non-attendance is generally inappropriate and should only be considered in exceptional circumstances.

Withdrawal/stay of charges – Charges should only be withdrawn or stayed in exceptional circumstances.

Judicial interim release – Release of the abusive partner or accused should be made subject to appropriate conditions including, for example, non-communication orders, firearms prohibitions, and drug or alcohol prohibitions. Some jurisdictions direct the Crown to oppose release on bail where there is a significant history of abuse, including, for example, cases where there have been previous breaches of court orders. Most jurisdictions direct the Crown to advise victims of the outcome of the bail hearing and of any conditions.

Contact with the victim – Crown counsel should try to meet the victim in advance of the trial date and should advise the victim of, and direct her to, available victims' assistance services.

The Working Group acknowledges that there have been some difficulties with the implementation of pro-prosecution policies across the country. These include Crown frustration in dealing with reluctant witnesses and victim unhappiness with the decision to prosecute. As well, some members of the public are frustrated that the policy does not always lead to prosecution and incarceration. The Working Group concludes, however, that pro-prosecution policies, "help to ensure a strong and consistent criminal justice system response to spousal abuse." (p. 25) It goes on to identify three other measures which would contribute to the effectiveness of the policy. These are: providing information to the victims throughout the process; enhancing investigative techniques and practices in spousal abuse cases to obtain all available evidence and not just that of the victim/witness; and offering a broader set of criminal justice responses, in addition to a trial and incarceration, that will strengthen the ability of the criminal justice system both to hold the offender accountable and respond to the unique realities of domestic violence.

The Winnipeg Model

Jane Ursel (2001, 1998, 1997, Can.) has written extensively on the role of prosecution in addressing domestic violence and on the innovative work taking place in Winnipeg to develop a prosecutorial model which both holds the offender accountable and respects victims' wishes.

As discussed above, prior to reform, Winnipeg Crown Attorneys were reluctant to take on domestic violence cases, as they were seen as unwinnable and therefore career limiting. In an attempt to change the underlying culture of the Crown Attorneys'office, a specialized prosecution unit was developed to support the Winnipeg Family Violence Court. Domestic violence cases were redefined from low-priority to high-priority cases and were understood to be difficult, "requiring the most skilled and sensitive of court personnel to handle them." (1997, p. 272) The specialized prosecution unit is now guided by the seemingly contradictory policies of rigorous prosecution and sensitivity to the needs of victims. In all cases, prosecution must be pursued, but not at the expense of

the victim. Crowns are not allowed to declare witnesses hostile, to put witnesses in a position to be held in contempt of court or to badger them with warrants.

In order to meet the challenges of this new policy, Crowns have developed some innovative approaches to prosecution. The two distinctive outcomes of this new system are the introduction of testimony bargaining and the acceptance by the Crown of higher stay rates. Testimony bargaining occurs when cases are scheduled for trial and the victim is reluctant to testify, usually because she is worried about the impact on her family of her partner's incarceration. The Crown Attorney may agree to reduce the number or severity of charges and/or recommend probation and court-mandated treatment in return for the victim/witness's cooperation. "This is not orthodox criminal justice procedure, but we know that orthodox procedure has often victimized the witness in domestic violence cases. Testimony bargaining gives the victim/witness a voice in the criminal proceedings, it indicates that the Crown not only represents the interest of the state but also the interest of the victim." (1997, p. 272)

The most frequent outcome of an arrest for domestic assault in Winnipeg is a stay of proceedings. This acceptance of a high level of stays is based on the belief that the particular case before the court is part of a long process leading to the victim's ultimate decision to make a final break form her abuser: victims who are not able or willing to testify now may well need to do so after they have exhausted all other alternatives. Ursel acknowledges concerns about excessive use of stays, including less motivation for the accused to attend treatment. In response to these issues, a new program, called the Rehabilitative Remand, is under discussion within Manitoba Justice. Under such a program, cases might be remanded until the accused attends and completes treatment, with the agreement that a successful completion of treatment will result in a stay of proceedings.

As was discussed in the previous section on law enforcement, Ursel believes that the criminal justice system must embrace a new paradigm of justice which moves away from a focus solely on conviction and recognizes the criminal justice system's role in the *process* of addressing domestic violence. In Ursel's view, the criminal justice system, and those who research it, should be less concerned about conviction and immediate recidivism and more focused on the role the system plays in assisting victims as they slowly disentangle themselves from domestic violence. She views the Winnipeg prosecution model as part of that new justice paradigm. According to Ursel, four factors "distinguish this system from the more limited reforms implemented in the United States, (i.e. pro-arrest, no drop policies)." (2001, p. 26)

1. Justice personnel have moved away from the single incident perspective and the single measure of success (conviction), towards a 'process perspective' on intervention.
2. The information utilized to construct an alternative response is the lived and expressed needs and interests of the family caught up in the destructive dynamic of abuse.

3. The components of a domestic violence sensitive response consist of specialized services within the criminal justice system.
4. The measure of success responds to the needs and interests of victims and their family and protocol is outlined in the crown attorneys' policy on prosecuting domestic violence cases.

Ursel describes the profound cultural and practical changes which have taken place as a result of Winnipeg's new prosecution model: "Over time crown in the family violence unit have come to redefine success. They understand that women's ambivalence to testify lies deep in a complex personal and family history. As a result of their deeper understanding of the dynamics of domestic violence, crown have become more humble in their assessment of their role. They, like refuge workers, now understand that a single trip to a refuge/court cannot in and of itself undo a lifetime pattern. Conviction is no longer their sole measure of success. They view their role as providing a service but the woman must determine how much of that service she needs to use. She may not be ready to testify today but she may be back in a month or a year and she should view the court as a resource." (1997, p. 272)

The Debate over Prosecution Policies

Mandatory and rigorous prosecutions policies have been the subject of the same debate and disagreements in the literature as the various pro-arrest policies. Some researchers and writers laud this approach as a long-overdue attempt to have domestic violence taken seriously by the criminal justice system. Others express concern that victims' voices are often silenced by such policies.

Proponents of no-drop and rigorous prosecution policies offer many arguments in favour of the concept. Gwinn and O'Dell (1993, U.S.), who work in the criminal justice system in San Diego and support the no-drop policy there, say that, as most batterers have the power in a violent relationship, asking the victim to make prosecution decisions is akin to giving the batterer control over the criminal case. "The solution to this vexing issue was to take the responsibility out of the hands of the victim and place it with the Sate were it belongs." (p. 1514) Robbins (1999, U.S.) lists a number of arguments in support of mandatory prosecution. She says no-drop policies: relieve the victim of the responsibility of going forward and may decrease abuser harassment about the decision; empower victims by showing them that the abuser's power does not extend to the courtroom; recognize that victims are not in good situations for making such decisions; and impress upon the batterer the severity of the issue, which may act as a deterrent. She goes on to say that it is unlikely that women will face contempt of court charges as a result of this policy or that they will be less likely to call the police. She adds that battery cannot be legally consent to, "which is essentially what is happening when we 'respect the wishes' of battered women not to prosecute." (p. 232)

This latter argument, that pro-prosecution policies are simply an attempt to ensure the law is applied to domestic violence, has been repeated in the Canadian literature. As the Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) has pointed out, pro-

prosecutions policies are nothing more than "the applicable standards for all criminal conduct." (p. 25) That is, decisions about all other criminal prosecutions are made based on whether there is a reasonable prospect of conviction and whether it is in the public interest to prosecute, not based on victims' wishes. Applying these basic prosecution standards to domestic violence cases has "played a pivotal role in helping make the critical distinction between the criminal justice system's treatment of spousal abuse as a 'criminal matter' and its historical treatment of spousal abuse as a 'private matter.'" (p. 25)

Critics of pro-prosecution policies argue that they disempower the victim by removing her ability to choose how to proceed. (Buzawa and Buzawa, 2003, U.S.; Brown, 2000, Can.) Several research studies, some of which have been quoted above, found that while women may want their abusers to be arrested, they do not always want them prosecuted. (Brown, 2000, Can; Lewis et al., 20002, U.K.; Hoyle and Sanders, 2000, U.K.) As well, as Ford (1991, U.S.) argues, successful prosecution does not always guarantee victim safety. Sometimes women are able to obtain better outcomes for themselves and their children by pressing, and then dropping, charges. Critics also point out that a mandatory prosecution policy can lead to heavy caseloads of unwinnable cases and disgruntled victims (Davis, Smith and Nickles, 19997, U.S.; cited in National Institute of Justice, 1998, U.S.; MacLeod, 1995, Can.) Others fear that it causes underreporting of domestic violence as some women may be reluctant to call the police if they know prosecution is the inevitable result, as well as increased victimization and negative impacts on racial and ethnic minorities. (Buzawa and Buzawa, 2003, U.S.)

Several writers have suggested alternatives to mandatory and rigorous prosecution policies, most of which centre around increased support for victims moving through the system. Buzawa and Buzawa (2002, U.S.) recommend a long-term training program to sensitize court personnel, funding of a well-staffed advocacy program and active efforts to train victims on the judicial process and their rights. They argue that "victims need to be treated as full partners in the prosecution of the case. This necessitates that the victim be given full disclosure of the long-term trends of familial violence, including the tendency to escalate attacks, the potential of effective prosecution to end such a cycle, and a realistic assessment of the costs and delays that she will likely incur if there is full prosecution of a case." (p. 201)

Hoyle and Sanders (2000, U.K.) identify the elements of a victim empowerment model which they say should replace mandatory prosecution. Those elements include:

- a pro-arrest policy, to give victims time and space to decide what to do
- a policy mandating that perpetrators are only released on bail with appropriate conditions
- a victim advocacy program which ensures that advocates contact victims as soon as possible after arrest so that the time provided by the arrest and bail policies is used constructively

- a process by which the advocate and the victim together assess the victims' needs and desires in relation to the violence, the relationship and ancillary matters. The question of whether or not to prosecute would be based on the victim's assessment of her needs.

As mentioned in the section on specialized courts, this emphasis on active victim participation in the legal system, and particularly in the prosecution process, challenges some of the fundamental principles of the Canadian legal system. Traditionally, victims' roles in the criminal court have been very limited. There are two parties in a criminal prosecution: the state, as represented by the Crown, and the accused. "… in a criminal case the victim of an assault is not a party to the proceedings and has no 'right' to a conviction of the assailant. If anyone can be said to have a right to a conviction, it is the Crown, representing the whole community." (Waddams, 1992, Can., p. 61) Some writers argue that, even with the increased emphasis on victims' rights in Canada and other countries, victims will never achieve a real decision-making role in the criminal justice system and should be instead be focusing their efforts on restorative justice initiatives (e.g. Aboriginal justice efforts) which attempt to address the crime outside of the criminal justice system. According to Kent Roach, (1999, Can.),"{i}n the worlds of prosecution and punishment, they {victims} can be informed and consulted, but will have little real decision-making power. Some victims' rights will be recognized, but they will often be pitted against due-process rights. In the worlds of crime prevention and restorative justice, however, victims and potential victims of crime may find more decision-making power and less opposition." (p. 319)

Prosecution Studies

A number of prosecution-related studies have been undertaken in recent years. Most of these can be divided into two categories – those which focus on the impact of prosecution on recidivism and those which examine the role of victim cooperation in successful prosecution. Both are reviewed below. The recidivism studies are somewhat discouraging, showing no strong link between prosecution and recidivism. Several of the victim studies support Jane Ursel's argument that disentanglement from domestic violence is a long process, that victims often have a number of practical goals in mind when they engage the criminal justice system and that, in order to successfully address domestic violence, the criminal justice system must move from an incident-oriented to a process-oriented paradigm. Again, the bulk of this research has taken place in the United States, although there is some limited Canadian and United Kingdom data.

<u>American and United Kingdom Research</u>

Recidivism

Davis et al. (1998, U.S.) studied the deterrent effect of prosecution and found no evidence that prosecution outcomes affected the likelihood of recidivism in domestic violence misdemeanor cases. The researchers examined the outcomes for 669 cases prosecuted in Milwaukee County, Wisconsin between mid-1994 and mid-1995 and compared them with 464 cases which were declined for prosecution during the same time period. Data

on new arrests occurring within six months after disposition of the original arrest were gathered from the court's computer database. The researchers divided the cases into four possible categories: case declined for prosecution; case filed with the court but subsequently dismissed; convictions in which the defendant was sentenced to probation including mandatory batterer treatment; and convictions in which the defendant was sentenced to jail time. They found that there was no difference in recidivism among the four categories. The authors conclude that "there is little support for the idea that law enforcement responses to domestic violence misdemeanors reduce or eliminate violence … The criminal justice system has an important role to play in protecting victims from abuse by more powerful persons, but we should not be surprised if criminal justice intervention is not always the controlling factor in interpersonal relationships governed by complex forces." (p. 441-442)

As discussed in the law enforcement section, Tolman and Weisz (1995, U.S.) explored the effectiveness of a coordinated community intervention designed to reduce domestic violence in DuPage County, Illinois. They found recidivism rates were lower for those men who were prosecuted and convicted, as compared to those who were not arrested, who were found not guilty or whose cases were dismissed, but the differences were not statistically significant.

Ford and Regoli (1993, U.S. cited in National Institute of Justice, 1998, U.S.) examined the impact of several different prosecutorial policies on recidivism, using 198 cases involving on-scene arrests (OSAs) by police and 480 cases where victims filed complaints at the prosecutor's office (VCs). (OSA cases could not be dropped by the victims, VCs could be dropped by victims in certain instances.) Recidivism was determined by victim and accused interviews and a review of official records six months after court settlement. The researchers found that domestic violence victims were considerably more likely to have been battered in the six months before their cases were brought to the prosecutor than in the six months following settlement (70% versus 40%). Arresting defendants by warrant and allowing victims to drop charges resulted in a re-battering rate (13%) less than half that of the other prosecutorial possibilities. Summoning defendants to court and pursuing non-counselling sentencing alternatives (.e.g fines, probation) resulted in the highest recidivism rate (44%). Interestingly, those victims who were allowed to drop the charges but decided to proceed with prosecution were significantly less likely to be re-abused than those who did not. Those who dropped charges after the batterer was summoned to court were in greatest jeopardy of renewed violence.

Victim Cooperation

Victim cooperation with prosecution is a clear preoccupation in the literature, and for good reason. Several studies have shown the victim cooperation is a key factor in whether prosecutors decide to continue with court proceedings and whether the offender is found guilty (Kingsworth et al., 2001, U.S.; Hirschel and Hutchison, 2001, U.S.; Moyer, Rettinger and Hotton, 2000, Can.).

Lewis et al. (2000, U.K.) conducted in-depth interviews with 142 female victims and 122 male abusers following the imposition of criminal justice sanctions in two Scottish Sheriff court jurisdictions. The researchers found that women reported a variety of reasons for invoking the legal system, ranging from protection and prevention to rehabilitation, and that they were involved in a constant process of assessing and making decisions to increase their own and their children's safety. For instance, in deciding whether to involve the law, a woman would consider the likely impact of a court case upon the partner's treatment of her, upon the family finances, upon the man's criminal record and upon the children's relationship with their father. The researchers conclude that women are "active agents, engaged in a complex process of 'active negotiation and strategic resistance' both with their partners and with the range of helping agencies, in their struggle for safety and 'justice.'" (p. 180) They point out that this research does not support the "learned helplessness" theory often espoused to explain why women stay with abusive partners, although they acknowledge that abused women's options are severely limited. Similar to Ursel, these researcher see the victim's involvement in the criminal justice system as a long process and argue that it is crucial that the system understand and accommodate the changing needs and goals of victims as they slowly move out of abusive situations. "It is important to remember, however, that what individual women want changes over time. While they might require the police to provide only immediate protection in response to an assault early in the relationship, later on they might wish to invoke the full force of the law and see their violent partner charged and prosecuted. If a woman's wishes are not taken into account, there is a danger that she will become alienated from the legal system and less likely to call on it in future." (p. 201)

Goodman, Bennett and Dutton (1999, U.S,) found that tangible support (people who can help with practical issues such as child care and financial assistance), severity of violence in the relationship and the presence of children in common with the abuser significantly predicted victims' cooperation with prosecution. That is, when those factors were present, victims were more likely to cooperate with prosecution. Substance abuse amongst victims significantly predicted their non-cooperation with prosecution. The study was based on questionnaires and interviews with 92 women reporting to the Domestic Violence Intake Center at the DC Superior Court in Washington in 1997. The data was collected early in the process, at intake and right after the first scheduled trial date. Interestingly, the researchers found that neither depression nor emotional dependence on the abusive partner was related to cooperation. As they point out, this "contradicts the common perception of the battered woman as unable to cooperate with the prosecution out of depression, helplessness or attachment to the abuser." (p. 439) They also point out that the link between severity of violence and victim cooperation might help dissipate the belief, commonly held by police and prosecution, that victims who have called the police repeatedly or been in the system before will not proceed with prosecution. Instead, the authors says, police and prosecutors should "see victims' use of the criminal justice system as a process, during which time it is important to encourage their use of this system, particularly so that a response can be forthcoming quickly as the level of violence increases." (p. 441)

Bennett, Goodman and Dutton (1999, U.S.), using the data from the study discussed above, outline several barriers which may impede victim cooperation with prosecution. These include: a confusing process; frustration with the length of the court process; fear, because the abusers are not jailed and the victims don't feel safe; and conflicted feelings about the possible incarceration of the abuser (these stem from feelings of guilt as well as need for his income). They put forward several recommendations for improving the system, including providing victims with easy-to-read materials about the court process; holding educational sessions at the court; providing more extensive follow-up with victims to keep them informed of the status of their cases and resolve misunderstandings; creating court accompaniment programs; and informing victims about possible dispositions and the low probability of incarceration.

Ford (1991, U.S.), in a much-quoted article, argues that criminal prosecution of abusive men is a "power resource used by battered women to help bring about satisfactory arrangements for managing conjugal violence." (p. 313) He says that victims who file and later drop charges are using "a rational power strategy for determining the future course of their relationships." (p. 313) He provides details on interviews with 12 women who dropped charges against their partners and concludes that victims use prosecution for leverage in managing domestic conflict or arranging favourable settlements. He says that seemingly powerless battered women seek empowerment through the manipulation of the criminal justice system and that mandatory prosecution policies fail to take that reality into consideration. Similar to Ursel and Goodman, Bennett and Dutton, Ford believe that if criminal justice professionals fully understood why women were using the system in this way, it would help to decrease frustration and misunderstanding. He says that such feelings "stem from a narrow definition of 'assistance' denoted in terms of the helper's role rather than victim needs …. If one focuses on victims' needs, their attempts to prosecute can be seen as rational acts consistent with other behaviors meant to alter the balance of power in a conjugal relationship." (p. 331)

Canadian Research

Similar to the American work in this area, most Canadian research on the prosecution of domestic violence cases has focused on the involvement of victims in the process and the need for programs which support and inform victims.

Dawson and Dinovitzer (2001, Can.) examined the impact of victim cooperation on the prosecution practices of a specialized court in Toronto. They found that even in a court designed to minimize reliance on victim cooperation through the use of other types of evidence, when prosecutors perceive a victim to be cooperative, the odds that a case will be prosecuted are seven times higher than if a victim is not perceived to be cooperative. They also found that the two most important determinants of victim cooperation were the availability of videotaped testimony and meetings between victims and victim/witness assistance workers. Results were based on analysis of prosecution files, including police investigation reports, as well as files from the Victim/Witness Assistance Program. A total of 474 cases were tracked from April 1, 1997 to March 21, 1998.

Ursel (2001, Can.), in assessing the treatment of Aboriginal offenders at the Winnipeg Family Violence Court between 1992 and 1997, found that the Crown was less likely to stay proceedings for accused who were Aboriginal. Aboriginal men were granted stays of proceedings in 43% of the cases examined, compared to 48% for non-Aboriginal men. As she points out, however, stay rates may be affected by the differences in the nature of the crime; the data indicated higher rates of weapon use and higher rates of prior record among Aboriginal accused. Further analysis of the data found that Aboriginal men actually had a higher stay rate for more serious crimes, suggesting "a fairly complex interaction effect between weapon use, prior record, crime severity and ethnicity." (p. 35) Ursel also found that ethnicity did not appear to be a determinant of who goes to trial in Winnipeg, as 11% of Aboriginal accused and 10% of non-Aboriginal accused proceeded to trial. However, she found that a higher number of cases involving Aboriginal accused were dismissed (60% as opposed to 44% for non-Aboriginal men). According to Ursel, this "suggests an even greater reluctance on the part of Aboriginal victims to attend to court and testify than non-Aboriginal victims." (p. 37)

Brown (2000, Can.) in his review of research, academic and judicial responses to charging and prosecution policies in cases of spousal assault, found that Canadian studies evaluating victim perspectives indicated a strong degree of support for mandatory charging and arrest and a substantial degree of dissatisfaction with mandatory prosecution. He points to the Family Violence Court in Winnipeg as "an appropriate model from which to approach the often competing concerns of rigorous prosecution and sensitivity to the victim" (p. 10) and acknowledges the need for specialized victim services in jurisdictions implementing aggressive charging and prosecution studies.

Landau (1998, Can.), in a working document for the federal Justice Department, synthesizes the findings of ten reports commissioned by the Department of Justice Canada's family violence research program since 1993. Her conclusions include: there is general agreement that mandatory charging has been successful in increasing the number of charges laid, promoting rigorous prosecution and reducing case attrition; many women who experience the process want more support, including information about the prosecutorial process, their own case and opportunities to meet with the Crown before their case comes to trial; there is considerable support for alternatives to criminal prosecution, including mandatory counseling or mediation; and further research is required on the extent to which spousal abuse continues at various stages in the prosecution process, integrating the voices of abused women into evaluations of domestic violence interventions and strategies to deal with spousal assault which do not involve the criminal justice system.

MacLeod (1995, Can.) interviewed 20 Crown Attorneys across the country regarding "no-drop" prosecution policies. The Crowns told her that rigid policies were removing victims' choices, making some women turn away from the justice system and increasing the number of reluctant witnesses, as well as overloading the courts with relatively minor assault cases, thus taking time away from high-risk cases. The interviewees called for several changes to the justice system, including: better training to help Crowns understand the dynamics of domestic violence and identify high-risk cases; quicker

processing of serious, high-risk cases; creation of more pre- and post-charge options; involvement of victims in the solution; and supports for victims and offenders.

Summary

The literature on the role of criminal prosecution in addressing domestic violence helps to highlight the complexity of this issue. There are no simple solutions or clear-cut answers. Rather, the literature points to the many difficulties involved in balancing the competing interests of the state, the victims and the offenders, all within the context of the traditions, structures and premises of the criminal justice system.

Several interesting and useful themes emerge from the literature in this area. As with some of the studies reviewed in the law enforcement section, prosecution research destroys some of the commonly held beliefs about the victims of domestic abuse. Rather than describing victims as helpless, depressed women paralyzed by fear, these studies paint the picture of purposeful individuals who are attempting to choose the best of a very limited set of options in order to protect themselves and their children. In addition, some of the researchers working in this area raise pertinent questions about the role of victims in the prosecution process and put forward some intriguing ideas for addressing the needs of victims. While any new suggestions or initiatives must always take into consideration the basis premises of the Canadian criminal prosecution system (i.e. the state vs. the offender, not the victim vs. the offender), the literature in this area does serve to expand and enhance current thinking regarding the criminal prosecution of domestic violence, the involvement of victims in that prosecution and the range of system reforms which might contribute to a more effective response to domestic violence.

SECTION SEVEN: PROBATION SERVICES

Introduction

As the court-based evaluations discussed earlier indicate, a dramatic increase in the number of offenders sentenced to probation appears to be one of the consistent outcomes of a specialized domestic violence court. This "places probation departments in the forefront of the struggle against domestic violence." (Mederos et al., 1999, U.S.) Despite this fact, little has been written about the impact of various probation initiatives on domestic violence and, as a result, this section is shorter and less comprehensive than previous sections. It is divided into only four sub-sections: probation's role in addressing domestic violence; risk assessment; evaluations; and a conclusion.

Probation's Role in Addressing Domestic Violence

The few authors who have addressed the subject seem to concur that probation services can be effective in addressing domestic violence if they are well-resourced, prepare thorough pre-sentence reports, conduct careful monitoring of batterers and react quickly to non-compliance. (Roberts and Kurst-Swanger, 2002, U.S.; Amos and Dunham, 2002, U.S.) Unfortunately, the literature also indicates that this is not always the case and that probation departments often operate under financial, resource and policy constraints which limit their effectiveness. (Amos and Dunham; 2002, U.S.; Mederos et. al., 1999, U.S ; Ursel, 1996, Can.; Ingratta and Johnson, 1995, Can.)

Ames and Dunham (2002, U.S.) introduce the concept of asymptotic justice when discussing the utility of probation. An asymptote is a curved line that approaches a straight line, gets closer and closer, but intersects the line only at infinity. Given that domestic violence cases often take a long time to resolve in the courts and that victims may never be completely safe, "justice after intimate partner violence appears more asymptotic than exact." (8) In fact, the authors say, criminal justice responses may never achieve true justice but may only eventually approximate justice. With that caveat in mind, they argue that probation is a useful tool in dealing with domestic violence because it allows the criminal justice system to monitor offenders, protect victims and fully mobilize in cases of violations. They add, however, "that even asymptotic justice requires commitment and dedication from criminal justice professionals that is difficult to create and sustain across individuals and across time." (9)

An educational piece written to inform probation officers about domestic violence argues that if batterers on probation are not given specialized attention, the rate of recidivism will be high. The authors point out that many batterers fit the profile of the low-risk offender – no record, employed and well-respected. As a result, such offenders may not be intensely monitored by their probation officers. In reality, the authors maintain, batterers are often chronic, long-term offenders and they need medium to high intensity monitoring and longer probationary periods. Other probationary measures recommended in the article include: specialized domestic violence units that monitor batterers closely and support victims; extended probation sentences and the addition of charges after

violations of probation that endanger victims; and short prison sentences for probation violators, in combination with the original probation sentence. (Mederos et al., 1999, U.S.)

In an effort to better understand the role of the probation officer in addressing domestic violence, Ingratta, herself a probation officer, interviewed three probation officers charged with monitoring domestic violence offenders as part of Toronto's Metro Woman Abuse Protocol Project. (Ingratta and Johnson, 1995, Can.) She found that lack of support from other court personnel, upper management and colleagues, in addition to a lack of political will and resources, were impeding the operation of the protocol project. As well, the decision not to allow probation officers to give the victims information on the offenders' probation orders was identified as a problem, as was the lack of resources for counselling offenders. Under the protocol, probation officers have enhanced accountability to victims, which increases their workload and makes many officers reluctant to take on domestic violence offenders. Despite this, the authors found that the officers felt that increased victim contact had improved the overall administration of the cases.

Risk Assessment

Interest is growing in the research and domestic violence communities in the validity of risk or dangerousness assessments, especially as tools to be used by probation officers and other practitioners in preparing pre-sentence reports. It is interesting, for example, that several of the recent inquiries into the deaths of Canadian women by their abusive partners made recommendations supporting the increased use of risk assessments. (See for example the Manitoba inquiry into the deaths of Rhonda and Roy Lavoie and the coroner' inquest into the deaths of Arlene May and Randy Iles in Ontaro.) Scholarly debate seems to centre around which factors should be measured in risk assessments and which of the instruments currently available is more effective. (Loza and Loza-Fanous, 2002, Can.; Kroner and Loza, 2001, Can.; Hanson and Harris, 2000-1, Can.; Hanson and Wallace-Capretta, 2000-06, Can.; Goodman, Dutton and Bennet, 2000, U.S.; DeKeseredy and Schwartz, 1998, U.S.) These articles are not discussed in great detail here as their technical and detailed examination of specific tools adds little to a discussion of either probation services or specialized courts. Suffice it to say that a range of factors have been identified as important for inclusion in risk assessment tools. These include: offender demographics such as age, education, marital status and socioeconomic status; criminal history of offender; prior history, nature and patterns of domestic violence and marital conflict, including psychological abuse; offender's level of obsessive-possessive behaviour and jealousy; offender's access to weapons; offender's substance abuse habits; and offender's mental health history. (Powis, 2002, U.K ; Hanson and Wallace-Capretta, 2000-06, Can.; Hassler et al., 2000, U.S.: Bennett, Goodman and Dutton, 2000; U.S; Websdale. 2000, U.S.; Aldarondo and Sugerman, 1996, U.S.)

Tyagi (1998, Can.) concludes that risk assessments need to be grounded in a theoretical framework rather than occurring as a stand-alone activity, must be based on multiple sources of information, must speak to a specific time frame (e.g. whether the batterer is

likely to offend ever again, within a few months or in the next few days) and must present the conditions under which the batterer is most likely to re-offend (e.g. under the influence of alcohol, on threat of separation).

The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) urges caution in the use of risk assessment tools, as "strong evidence does not yet exist that these tools clearly predict future behaviour." (p. 75). The Working Group recommends that any training related to these tools clearly state the limitations of the approach. It further concludes that the main value of risk assessment tools "may lie mainly in increasing awareness of the behaviour of abusive partners, possibly resulting in increased vigilance in monitoring these offenders and the more cautious release decisions." (p. 76)

Some researchers are also interested in ensuring that victims' opinions and perceptions are built into risk and lethality assessments and that the utility of such tools for victims is maximized. Given that victim safety is one of the HomeFront objectives, those articles are reviewed in more detail here.

Shepard (1999, U.S.) discusses a small study initiated by the Domestic Abuse Intervention Project (DAIP) in Duluth, Minnesota which found that the offender's prior criminal record and substance abuse were the factors most often reported by probation officers in pre-sentence reports. The degree to which the offender had been violent and information from the victim were the factors least likely to be included in reports. Judges supported probation officer's recommendations 75% of the time. The findings confirmed DAIP's focus on encouraging probation officers to determine the offender's history of violence and the risk to the victim. Shepard cautions, however, that probation officers should not rely on dangerousness assessments to the exclusion of the victim's perception of her safety and the probation officer's own judgment.

Weisz et al. (2000, U.S.) also discuss the importance of survivors' predictions in assessing the risk of severe domestic violence. The authors investigated whether severe domestic violence could best be predicted by the survivors' general ratings of risk, a statistical approach using many risk factors, or a combination of the two. The authors conducted a secondary data analysis comparing the accuracy of 177 domestic violence survivors' predictions of re-assault to risk factors supported by previous research and found that survivors' predictions were strongly associated with subsequent violence. The researchers conclude by supporting the use of survivors' predictions in combination with other risk assessment tools.

Websdale (2000, U.S.) reviewed lethality assessment tools and decided that such instruments are more useful as a means of identifying future dangerousness than in precisely predicting lethal outcomes. He cites several concerns about lethality assessments, including: they may give women a false sense of security if the instruments indicate an apparently low level of risk of homicide; they ignore large numbers of women who are not likely to provide such intimate information, e.g. women of colour, migrant and immigrant women; and they are presented as very scientific and clinical when what most victims need is individualized and personal care, attention and respect. He

concludes, however, that although the instruments are not efficient lethality screens they can be useful to the domestic violence movement in developing more effective safety plans, listening to battered women more carefully and reducing the incidence of serious injury and, in some cases, death.

Evaluations

Very few researchers have examined whether domestic violence probationers are sentenced and monitored appropriately. As two of the studies described here indicate, the sparse research results are somewhat contradictory, with one showing a tendency towards deferred prosecution and inconsistent treatment referrals and the other finding increased probation conditions and supervision for domestic violence offenders. Given that five years elapsed between one study and the other, an optimistic interpretation may be that efforts to address domestic violence through the use of probation have improved over time. Indeed, the third study argues just that, saying that increased intolerance of domestic violence, in both society and the criminal justice system, is leading to a reduction in domestic violence.

Canales-Portalatin (2000, U.S.) studied cases of intimate-partner assailants referred to a probation department in Michigan in 1992, and compared them to cases involving non-intimate assailants, to determine "whether the punishment fit the crime" (p. 846) and whether intimate-partner cases received differential treatment. He found that intimate partner assailants were more likely to be deferred from prosecution and some of them were referred to batterer treatment programs. The comparative analysis of court sentences and demographic characteristics between those sent to domestic violence treatment and those not revealed no significant differences between the groups. The author concludes that "officials from the court, including probation officers, recommended sentences that corresponded not to the family laws but instead to personal criteria." (p. 853)

Olson and Stalans (2001, U.S.) examined the profile, sentence and outcome differences among domestic violence and other violent probationers, in a 1997 study conducted in Illinois. The researchers found that the demographic and criminal history profiles of domestic violence and other violent offenders were very similar. However, domestic violence offenders were more likely to report a substance abuse history and were somewhat more likely to be older, better educated, White and have a prior adult conviction. They also found that the domestic violence offenders were more likely to have been convicted of a misdemeanor offence and therefore to have received a shorter probation sentence. Domestic violence offenders also tended to have more conditions of probation, to be placed in specialized probation caseloads and to be more closely supervised. Domestic violence offenders and other violent offenders were equally likely to be arrested while on probation but the domestic violence offenders were three times more likely to re-victimize their original victims. As well, probation officers were much more likely to initiate or maintain contact with the victim in domestic violence cases.

A third study (Baba et al., 1999, U.S.) focused on probationers who were mandated to treatment in 1998 in Santa Clara, California, finding that complete participation in treatment was associated with more successful probationary periods. While in the program, those who eventually completed the year's probation term evidenced less likelihood of repeating domestic violence (6% vs 18%). Completion of the program also meant a lower probability of resorting to domestic violence during the subsequent year, 1% compared to about 8%. Findings suggest about a 93% success rate among those who completed the program and a 75% success rate among dropouts. (Recidivism was measured using probation file review and a criminal justice information database.) Interestingly, the authors conclude that, while treatment may have had some impact on recidivism, the attention paid to those incidents by the criminal justice system was also a factor. "Clearly, something inhibited prior tendencies to resort to violence on a partner. We believe this to be the more serious attention given crimes of domestic violence today than ten years ago… Extended family members, neighbors and friends, the police, judges and courts, probation officers, and even mere witnesses or bystanders are less likely to ignore cases of domestic abuse and violence. Nor are such court cases as likely to be dismissed, treated gingerly or reluctantly, and/or concluded with meaninglessly light or negligible 'sentences.'" (p. 14)

Conclusion

Despite the key role probation can play in addressing domestic violence, it has received very little attention in the academic literature. As a result, many questions remain unanswered. We know very little about the effectiveness of common probation practices in dealing with domestic violence and even less about possible best practices. Some of the literature in this area is encouraging, pointing to the importance of rigorous monitoring of domestic violence probationers and links to treatment programs. The sparsity of research, however, makes any conclusions about the impact of probation tenuous at best. A huge gap in our body of research and knowledge is apparent here.

SECTION EIGHT: TREATMENT

Introduction

A vast array of literature exists on batterer intervention programs, including debate on whether such approaches are effective or appropriate, examination of various treatment modalities, evaluative data and descriptions of what may cause changes in batterer behaviour. It would be far beyond the scope of this document to review that entire body of work. And, given that a separate evaluation of the HomeFront treatment component is taking place, such an extensive review would be unnecessary and inappropriate in this report. Rather, the focus here is on the role treatment services play in specialized court programs. As a result, this section is divided into five sub-sections: impact of court-mandated programs; dropout issues; victims' feedback; treatment effectiveness; and conclusion.

Impact of Court-Mandated Programs

Batterer treatment programs have been steeped in controversy since their inception. That controversy continues, aided by the fact that research finding are often inconclusive and contradictory. It is telling that Gondolf, one of the acknowledged experts in this field, began his most recent book on the subject with a series of completely contradictory quotes from the media, service-providers, academics and funders on the efficacy of batterer intervention programs. As Gondolf says in his preface to that book, "the debate over the effectiveness and utility of batterer intervention continues to escalate." (Gondolf, 2002, U.S., p. vii)

Part of the difficulty lies in the challenges inherent in evaluating treatment programs – problems which have been thoroughly discussed and debated in the literature. These include great variation in the way recidivism is measured; over-reliance on police reports and/or self-reports for re-offense rates; small sample sizes; high attrition rates; lack of experimental evidence; little focus on the actual process of change; poor follow-up and/or difficulties tracking subjects over time; problems and disagreements relating to the various scales used to measure abusive behaviour; lack of consideration of the differences between court-mandated and voluntary participation; risks of putting victims in further danger by asking about ongoing abuse or adding to their trauma by prompting them to retell their stories; and problems distinguishing the impact of the treatment program from other intervening systems, such as the courts, probation, victims' services etc. (McGregor et al., 2002, Can.; Tutty et al., 2001, Can.; Gondolf, 2002, U.S.; Hanson, 2002, U.S.; Dobash and Dobash, 2000, U.K.; Lederman and Malik, 1999, U.S.; Murphy and Dienemann, 1999, U.S.; Gondolf, 1987, U.S.; Fagan, 1996, U.S.)

Despite these problems, researchers continue to conduct evaluations of batterer programs and publish the results. In this section, we look briefly at some of those evaluations, focusing particularly on those which involved court-mandated batterers. Research from the United States, the United Kingdom and Canada is all reviewed below. It should be noted however, that in some cases the populations and issues raised may differ from

country to country. For example, the racial composition of the United States and Canada is dissimilar and therefore researchers and service-providers in those countries focus on different issues of cultural sensitivity (e,g, the needs of Black and Hispanic victims and offenders versus Aboriginal victims and offenders). As well, Canadian researchers seem to be less concerned with the differences between court-mandated and voluntary participants, with the limited research which has been conducted in Canada indicating that both population groups benefit from treatment.

American and United Kingdom Research

Feder and Dugan (2002, U.S.) conducted a classical experimental study in which they randomly assigned 404 male defendants into experimental (one-year probation and court-mandated counselling) or control (one-year probation only) groups. The researchers tracked the men for 12 months, collecting information from offenders' self-reports, victims' reports, and official measures of re-arrests. No significant differences were found between the experimental and control groups in their attitudes, beliefs, and behaviours regarding domestic violence. Both groups were equally likely to engage in both minor and severe partner abuse. As well, no significant differences were found between the two groups in their rate of re-arrest. The authors conclude that "an unquestioning acceptance of domestic violence batterer's intervention needs to be challenged." (p. 372)

Other studies have found more promising results. Dobash and Dobash (2000, U.K.) also studied offenders mandated to treatment versus those who received other dispositions (e.g. fines, probation, prison), although theirs was not a true experimental design. They found that men who successfully completed the treatment programs were not only more likely to stop using violence but they were also significantly more likely to reduce their controlling and intimidating behaviours. On almost all of the indicators, women involved with men in treatment reported positive improvements in their safety, sense of well-being and their relationship. Women involved with the other offenders were much more likely to report deterioration in quality of life.

Gondolf, in his large-scale evaluation of four treatment sites, found that "men who were arrested and enrolled in batterer programs appeared to be affected by the intervention." (Gondolf, 2002, U.S., p.200). Although nearly half the men re-assaulted their partners sometime during the four-year follow-up, most of the first-time re-assaults occurred in the nine months following program intake. (Recidivism measures included women's reports, men's reports and police records.) At 2.5 years after program intake, more than 80% of the men had not assaulted their female partners in the previous year. At four years, more than 90% had not done so for at least a year. Gondolf used three different analyses to determine a consistent and substantial program effect – that is, some of the positive impact on the men could be attributed to the treatment programs. Interestingly, Gondolf also found that the voluntary program participants were nearly twice as likely to drop out as the court-referred men (61% vs. 33%) and they re-assaulted their partners at a significantly higher rate during the 15-month follow-up (44% vs. 29%).

Gondolf did not find that program content and structure impacted program outcome. Despite the differences between the four programs (duration of group counselling varied from three months to nine and the level of additional supports were quite different), the "programs had amazingly similar outcomes." (p. 152) He attributed this to the fact that the shorter program compensated for program length with a more effective intervention system. That is, it moved men into the treatment program more quickly and responded more quickly and decisively to non-compliance and re-offense.

Canadian Resarch

McGregor et al. (Can., 2002) evaluated a Calgary-based treatment program, analyzing pre-test and post-test information for 76 program completers. The tests measured physical and non-physical abuse, self-esteem, perceived stress, family relations, depression, assertiveness and sex-role beliefs. The researchers found that the participants significantly improved on all variables. As well, 22 group members were contacted 5 to 28 months after treatment and tested on the same measures. The results indicated not only maintenance of the post-group changes but continued improvement.

Tutty et al. (Can., 2001) studied 15 Canadian treatment groups, involving 71 group completers. Group completion was associated with significant improvements in self-esteem, perceived stress, attitudes towards marriage and the family, locus of control and the marital relationship functions of roles, affective expression, and communication. As well, scores related to both physical and non-physical abuse were significantly reduced. No differences were found between court-mandated and non-court-mandated group completers and the researchers concluded that "both court-ordered and voluntary clients can expect to benefit equally from participation in men's treatment groups." (p. 664) The authors also suggest that, in fact, the distinction between court-mandated and voluntary clients may be a false one, as voluntary participants are often sent to groups by spouses or shelter workers, rather than being self-referred.

Hanson and Wallace-Capretta (2000-05, Can.) examined the relative effectiveness of four Canadian treatment programs. They found that there was little difference in recidivism rates across programs despite substantial differences in treatment philosophies (cognitive-behavioural, humanistic, pro-feminist, eclectic). The highest recidivism rate was observed in the program that had the weakest program implementation. The authors conclude that, given the lack of different impact for treatment approaches, "it is difficult to tell whether the programs are equally effective or equally poor." (p.14) However, they add that the small positive treatment effects found in other studies indicate that adequately implemented treatment may reduce the recidivism rates of abusive men.

Dropout Issues

Dropout Rates

Attrition is a common and serious problem in treatment programs, although the numbers vary from study to study. According to Gondolf, (2000, U.S.) as many as 50% of men

who initially contact a program for an intake appointment never appear and dropout rates range from 40% to 60%. Canadian studies indicate an attrition rate ranging from 20% to 60%. (McGregor et al., 2002; Tutty et al., 2001; Rondeau et al. 2001; Hanson and Wallace-Capretta, 2000-05; Cadsky et al.,1996).

Daly and Pelowski (2000, U.S.) say that differences in the calculation of dropout rates across studies make any conclusions about attrition rates difficult. Some researchers calculate rates from men's initial contact with the program until completion and others calculate from intake until the end of treatment. The practices of the programs being researched also differ. Some programs require men to re-enter repeatedly until they complete. Others require sessions longer than the local court mandates, so men may drop out but still complete court requirements.

These attrition findings are a cause for concern, as many of the risk factors for non-completion of treatment are also the same for continued abuse. Research has found that program drop-outs are two to three times more likely to re-assault their partners than those who complete treatment. (Gondolf, 2002, U.S.; Baba at al., 1999, U.S.) This indicates that high-risk offenders may not be completing treatment. (Rooney and Hanson, 2001, Can.) In response to this concern, Daly and Pelowski, (2000, U.S.) call for increased, and improved, research in program attrition and recommend several strategies for improving program retention. These include providing additional psychosocial treatment to men who need it, careful preparation of men for their own reactions to group intervention and the use of motivational enhancement strategies to facilitate men's movement through the various stages of change.

Demographic Characteristics of Dropouts

A number of studies have focused on the factors which predict non-completion of treatment. Some researchers have studied the link between the demographic characteristics of the batterers and attrition. Others have focused on external factors such as judicial monitoring and threat of consequences. Again, the results are not conclusive.

According to many researchers, offenders who drop out of intervention programs tend to have unstable lifestyles (e.g. substance abuse problems, criminal history, unemployment, unstable living arrangements), to be younger, unmarried, less educated and poorer than treatment completers, to have been in their relationships for shorter periods of time, to have fewer children, and to have inflicted more severe abuse. (Rooney and Hanson, 2001, Can.; Rondeau et. al, 2001, Can.; Dalton, 2001, U.S.; Daly and Pelowski, 2000, U.S.; Baba et al., 1999, U.S.) These results confirm the stake in conformity hypothesis – that is, men who are most likely to drop out of treatment and re-offend are those who have the least to lose in terms of education, marital status, home ownership, employment, income and length of residency. (Bennett and Williams, undated, U.S; Fagan, 1996, U. S.)

The Role of Judicial Monitoring

Interestingly, however, a recent study (Buttell and Pike, 2002, U.S.) found no difference between the demographic and psychological variables of program completers and dropouts. The authors of that study cite other inconclusive research in this area and speculate that attrition may be linked to judicial support for treatment programs. That is, attrition rates are lower in areas where the judiciary is supportive of treatment programs and meaningful sanctions are imposed for non-compliance.

In support of this theory, Gondolf (2000, U.S.) points to the importance of court monitoring of compliance with treatment orders in order to decrease program attrition. His study examined the impact of implementation of a 30-day court review of compliance. The number of offenders who did not complete the batterer program dramatically decreased from 52% to 35% after the review was instituted. Those who completed the program were half as likely to be re-arrested for assault (domestic violence or not) as those not referred to the program (16% vs. 37%, n = 400). The re-arrest rate for domestic violence cases was only 8% for those who completed the program as compared to 14% for those who were not referred. Similarly, a 1999 study showed that monitored attendance was one of only two variables which predicted completion of a treatment program. (DeHart et al., 1999, U.S.)

The threat of criminal sanction alone, however, may not be enough to prevent batterers from dropping out of programs or re-offending. Heckert and Gondolf (2000a, U.S.), using data from the multi-site batterer program evaluation, reported on the effect of batterer perceptions of the likelihood of jailing on dropout and re-assault. Approximately half of the 840 batterers interviewed perceived jailing as likely to result from program dropout or re-assault. Batterers from programs with a court review process for program compliance and/or higher arrest rates for re-assault were more likely to perceive jail as likely. As well, prior contact with social control agents (e.g. criminal justice system, alcohol treatment) was a strong predictor of perceiving jail as likely. However, neither perceived certainty of sanctions nor perceived severity of sanctions was predictive of program dropout or re-assault. The authors conclude that increasing perceptions of criminal justice sanctions alone may not prevent batterers from re-assault. They also put forward two additional conclusions: it may be more useful to enhance the treatment component of batterer programs than to depend on the imposition of sanctions to prevent recidivism; and the criminal justice system may need to increase the certainty of arrest to reach a threshold where perceptions of certainty become firm enough to produce a specific deterrence effect.

A study by Dalton (2001, U.S.) seems to confirm those results. That research explored the relationship between treatment completion and the level of threat or consequence (e.g. jail, divorce, loss of parental rights) perceived by the client. The study found that although the completion rate was high at 71%, the degree of perceived threat did not predict treatment completion. (Dalton acknowledges that the measure of whether the client perceived a threat was imprecise and experimental, as it was based on comments made in interviews.) The author speculates that "once a batterer gets to treatment, the

external motivation for going becomes less important if the program is able to effectively engage the batterer." (p. 1235) This may also help to explain the results from the Canadian study cited above (Tutty et al., Can., 2001) which found that both court-mandated and voluntary participants benefited from treatment.

Victims' Feedback

Despite the growing body of literature on batterer intervention programs, few researchers have attempted to solicit victims' feedback and opinions on the efficacy of treatment. The few studies which have been conducted indicate that victims tend to view treatment programs positively and report decreased abuse and increased feelings of safety as a result of the interventions. The research also indicates, however, a number of outstanding issues for treatment programs. These include the fact that not all offenders respond to treatment, leaving a proportion of the victims at risk; offenders' participation in treatment may give women the false impression that their abusive partners are no longer capable of violence; and women whose partners have been court-mandated to treatment may not have accessed the same supports and assistance as women who have used shelters and therefore may need different programs and services.

American Research

Gregory and Erez (2002, U.S.) conducted in-depth interviews with 33 battered women whose partners were court-ordered to treatment, in order to obtain their perspectives on the program's effects. The respondents reported that although there were significant improvements in the severity and frequency of physical abuse while their abusers participated in treatment, verbal abuse was only slightly improved. The majority of the respondents (70%) reported improved relationships with their spouses who completed the program. However, one-fifth of the respondents stated that the program made their partners more angry or resentful. Most respondents also expressed concern about future abuse or questioned whether participation in the program led to any attitudinal changes concerning women. Nearly half of the respondents (45%) thought that the batterer intervention program was successful, although 39% did not think the treatment was effective; the remaining 26% did not know or did not answer. Those who felt the treatment did not work attributed it to their partner/spouse's unwillingness to change, psychological problems, or continued substance abuse. The authors conclude that the large proportion of partners reporting a positive effect of treatment is significant and supports other research which found a connection between program participation and a reduction in the severity and frequency of physical violence. They also point out that because reactionary abuse is a real danger for women in the initial treatment period, it is crucial that safety plans and other types of assistance be made available to women while their batterers are undergoing treatment.

Gondolf (1998, U.S.) reported on interviews with 482 partners of men ordered to batterer programs about their backgrounds, victimization, help-seeking behaviours and perceptions of the batterers. The study found that more than half the women had previously contacted the criminal justice system in response to abuse but only a quarter

had received any counselling for domestic violence and less than 10% had previously visited a battered women's shelter. The women's perceptions of their batterers were overly optimistic, despite the severe abuse and information from batterer programs. Gondolf points out that the duration and extent of the violence experienced by the women suggested patterns of long-term abuse and raised the importance of court officials assessing the history of violence instead of focusing only or primarily on the arrest incident. He concludes that the victims of court-ordered batterers appeared to be different in terms of their help-seeking behaviours from battered women in shelters and may therefore warrant special programs and research attention.

Canadian Research

Austin and Dankwort (1999, Can.) reported on 25 interviews with battered women whose partners had completed batterer intervention programs (BIP). Respondents described a variety of experiences, most of which appeared positive. The women reported increased feelings of safety, although many of the women did not feel absolutely safe and still feared their partners. As well, respondents identified such beneficial developments as enhanced personal well-being, feeling validated by program counselors, and increased knowledge regarding abusive behaviours. The authors maintain that treatment programs can be positive for women even if their partners make few changes. "(W)omen's feelings of validation and their increased knowledge of abuse were evidence of the strategic role that BIPs can play in providing battered women with crucial information, validating their realities of abuse, and assisting them in acquiring a sense of trust in their own capability to make decisions about their lives." (p. 38) They also caution, however, that offenders' participation in treatment can make women feel safer than they actually are and may encourage women to return to men who are still violent.

Treatment Effectiveness

Questions and concerns continue to be raised about the effectiveness of batterer intervention programs. As was noted above, Feder and Dugan's article calls for caution in endorsing such approaches. Similarly, Hanna (1998, U.S.) says that "preference for treatment as punishment for domestic violence offenders is misguided … empirical data have not shown that most domestic abusers can be rehabilitated through treatment programs as they are currently designed. Rather, the criminal justice system's reliance on batterer treatment programs is driven by politics, not science." (p. 1) Even Gondolf (2002, U.S.) whose research has indicated that such programs can be effective, acknowledges possible problems. In particular, he notes concerns that batterer programs may divert funds away from victims' services and that women may decide to re-unite with abusive men because they believe that treatment has ended the violence. He also points out that at least half of the men who re-assault their partners do so repeatedly, inflict serious harm and appear to be totally unresponsive and resistant to treatment.

Nevertheless, many researchers express cautious optimism about the impact of batterer intervention programs. Bennett and Williams (undated, U.S.) review a number of batterer treatment evaluations and conclude that the programs "have modest but positive

effects on violence prevention." (p. 4) They also argue that treatment programs must be part of a larger effort which includes education, arrest, prosecution, probation and victims' services and that any of those components "is diminished by the removal of any of the other efforts." (p. 10) Dankwort (1998, Can.) discusses the controversy around batterer treatment and says that "notwithstanding the uncertainty surrounding treatment programs, a case for supporting and advancing batterer programs can be made." (p. 128) He offers several reasons for this conclusion, including: battered women often request help for their partners and continue to live with them; such programs offer one more point of entry for men who have no other contact with legal, medical and educational resources; and treatment programs allow researchers, practitioners, policy-makers and service providers opportunities to understand batterers and enhance intervention strategies. Leduc (2001, Can.) conducted a literature review and research assessment regarding the effectiveness of Partner Abuse Intervention Programs for the Woman Abuse Council of Toronto and found that there appear to be consistent results indicating the programs are having a positive effect.

The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.), while acknowledging the controversy around treatment programs and the inconclusiveness of some of the research, recommends that jurisdictions continue to develop programs for abusive partners. It recommends that such programs reflect evidence-based practice and support rigorous research and evaluation. The Working Group also outlines the following as the elements of an effective treatment program:

- The inclusion of partner outreach as a component;
- The inclusion of a component that deals with the impact of the abusive partner's violence on his children;
- Links between the abusive partner intervention program and services offered to the victims and their children, to enable victims to make informed choices about their safety;
- Assessment of the perpetrator's potential to succeed in the program (the abuser should be screened for program suitability and the relevance of the program to the abuser's characteristics should be considered);
- Program admission as soon as possible following apprehension for a violent incident;
- Close ties to probation and to the court to ensure vigilant offender monitoring, immediate action on breaches and the provision of accurate information on offender participation in the program
- Accountability and monitoring mechanisms to address the impact of programs on offenders and the problem of high attrition (with meaningful sanctions for non-compliance)
- A consistent and accepted definition of success.

Conclusion

Clearly, this is an area still characterized by debate and controversy. The research is far from conclusive and therefore it is impossible to state with certainty that batterer intervention programs work. Nevertheless, there are many studies which point to some

success with certain populations. The research also indicates that judicial monitoring and clear consequences for non-compliance may play a role in program success, although it appears to be equally important that the programs effectively engage the batterer in the treatment.

Based on those findings, many researchers and policy-makers support the continued, careful, implementation of such programs, recognizing that they must be part of a larger co-ordinated effort to address domestic violence. Gondolf (2002, U.S.) closed his most recent book with a compelling argument that "the system matters." (p. 199). Batterer treatment is most effective when situated in a strong, co-ordinated system involving a range of organizations in the battle against domestic violence. "More has to be done, on many levels – in schools, in the workplace, in the culture, in the hearts of men. Batterer counselling has been a kind of laboratory for this ultimate work. By trying to contain, change, and help some of the most resistant and severe offenders, we are finding ways to affect other men in other places. We are also sending a message that men can and must change their behaviour toward women. For these and many other reasons, batterer counselling deserves to be continued but with more attention to the intervention system as a whole." (p. 218)

SECTION NINE: COORDINATED COMMUNITY RESPONSES TO DOMESTIC VIOLENCE

Introduction

A common theme running through most of the literature examined thus far is that any domestic violence policy, program or intervention must be situated within a broader, coordinated, community-wide initiative in order to be successful. Many communities have responded to this finding by developing coordinated community responses (CCRs), which are efforts to draw all the relevant systems and organizations together to work in unison to address domestic violence. According to Shepard (1999, U.S.), a CCR "involves police, prosecutors, probation officers, battered women's advocates, counselors and judges in developing and implementing policies and procedures that improve interagency coordination and lead to more uniform responses to domestic violence cases." (p. 1)

All of the components discussed in the Best Practices Review are usually part of a CCR (specialized courts, advocacy, law enforcement, prosecution, probation and treatment). This document will not re-examine or repeat information specific to those components. Rather, it will discuss issues related to the challenges of system and community coordination.

This section is divided into five sub-sections: historical development; evaluations; implementation challenges; best practices; and a conclusion.

Historical Development

Coordinated community responses to domestic violence are a fairly new phenomenon, emerging from the work of domestic violence communities over the last two or three decades. Two main issues seem to have contributed to the development of the CCR model: concern about uncoordinated services and limited assistance for victims; and the realization that neither the criminal justice system nor the community could successfully address domestic violence on its own.

In Canada, according to the Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.), the development of CCRs arose from "concerns about the fragmentation of the response to domestic violence and the absence of a shared vision and public accountability." (p. 35) In most of the literature, this issue of fragmentation is directly linked to the need to provide better service to victims of domestic violence. According to Hart (1995, U.S.), data suggest that the more resources and options available to a woman, the more likely she is to seek intervention or to leave her abuser. It is more effective, therefore, for a community to offer several viable, linked programs than to rely on a single intervention. "If one defines coordinated community response in terms of comprehensive, or at least multiple, options in the justice and human service systems, this appears to advance the goal of social justice for battered women." (p. 4) A Canadian study (Grasely et al., 1999, Can.) confirmed this approach when it found that abused

women relied on a combination of the criminal justice, health care and social services systems to help them cope with abusive partners. The study concludes that "coordinating all sectors of the service community … continues to be an important and worthwhile objective." (p. iv)

The Ad Hoc Working Group (2003, Can.) points out that neither legal sanctions nor community efforts, working in isolation from each other, have proven successful in decreasing domestic violence. "A number of studies have concluded that formal (legal) sanctions are more effective when reinforced by informal social controls and are weakened when those controls are absent. Similarly, evaluations of extra-legal responses (such as victim support programs and batterers programs) independent of other community context have produced mixed results." (p. 35) Hart (1995, U.S.) discusses the dangers of parallel reform of criminal justice and other systems, i.e. reform which is not coordinated across systems and sectors. She says that parallel reform does not lead to meaningful intervention and that it sometimes increases fragmentation. She points to the lack of shared vision, mechanisms for problem identification and solution development, communication, coordination, accountability, broad standards and evaluation as serious problems which may, in fact, decrease victim safety.

The development of CCRs has not been without its challenges, which will be explored later in this section. It is clear from the literature that the process is a slow one and that certain key elements must be in place in order for the effort to be successful. Clark et al. (1996,U.S.), in their examination of six coordinated community responses in the United States, determined that it takes a long period of time to change the way a community responds to domestic violence and that there were certain common factors which allowed the communities in question to move forward with this work. These include: key events in the community which drew attention to deficiencies in the system and raised public awareness; leadership; coordinating committees for domestic violence (already in place before the CCR was initiated); dialogue and interaction between advocates and criminal justice agencies; and changing community and professional norms about domestic violence. Short and DeBruyn (unpublished, 2000, U.S.) also studied six coordinated community responses in the United States and found that the following were critical to the coalition-building process: strong leadership; motivated and committed members with identified roles and responsibilities; a solid planning process including explicit commitment to providing services, implementing specific prevention activities and providing human/financial resources; a meaningful conduit for two-way communication among coalition working partners and community members; a strategic sense of which activities are worth undertaking; and well-defined goals.

Coordinated community responses continue to grow and evolve. Clark et al. (1996, U.S.) point out that although early coordination efforts focused on the criminal justice system, a "second generation" of initiatives is now emerging which include health care providers, child welfare agencies, substance abuse services, clergy and business.

Evaluations

The coordinated community response has not been subject to rigorous evaluation. Research has been conducted on the various elements of the CCR (e.g. law enforcement, treatment) but there has been little attempt to examine the impact of the entire response. (Syers and Edleson, 1992, U.S.; Murphy et al, 1998, U.S.; Shepard, 1999, U.S.) The few evaluations which have taken place, although not completely conclusive, indicate that implementation of the CCR model may improve a community's efforts to address domestic violence. That is, there is some evidence that CCRs may contribute to increased arrests, convictions and mandated treatment and decreased recidivism.

American Research

Shepard (1999, U.S.) reported on a Duluth study which used statistical procedures to determine factors which might be linked to recidivism. Of the 100 men included in the sample, 40% were identified as recidivists because they were either convicted of domestic assault, the subject of an order for protection or a police suspect for domestic assault. None of the variables that were related to the CCR (e.g., jail time, type of court intervention, completion of the DAIP program, number of sessions attended) discriminated between recidivists and non-recidivists. However, a later study (Shepard, Falk and Elliot, 2002, U.S.) revisited the recidivism question after the coordinated community response had been enhanced. Enhancements included expanded danger assessment and information sharing among criminal justice practitioners and advocates. Results indicated that offenders had significantly lower rates of recidivism after the enhanced project was implemented. Two variables were found to be significantly related to offenders not re-offending during the three years of the study – the offender having been court mandated to attend treatment and the offender completing that treatment.

Gamache, Edleson and Schlock (1998, U.S.) retrospectively studied three American communities where community intervention projects were established, finding that such initiatives had a significant impact on increasing the levels of perpetrator arrests, convictions, and court mandates to treatment. (Cited in Syers and Edleson, 1992, U.S.)

Murphy et..al. (1998, U.S.) studied recidivism in 258 cases handled by the Baltimore, Maryland State's Attorney's Domestic Violence Unit, testing the hypothesis that coordinated interventions will produce more effective results than will isolated and unsystematic interventions. The researchers conclude that the results "provide a basis for cautious optimism regarding the effectiveness of coordinated community interventions for male domestic violence perpetrators." (p. 278) The combined effects of prosecution, probation and court-ordered counselling were associated with significant reductions in recidivism.

Syers and Edelson (1992, U.S.) used police incident reports, agency data, and victim interviews to study 358 cases referred to the Minneapolis Intervention Project, an advocacy and system coordination project. The results indicate that the combination of police making arrests on first visits with the use of court mandated treatment decreased

recidivism. The strength of this finding appeared to increase the longer the men were monitored. The authors acknowledge serious limitations to this study as a result of incomplete data.

Steinman (1990) compared cases that occurred prior to the implementation of a coordinated community response to those that occurred after it was established. He found that police actions that were not coordinated with other sanctions produced increased violence. Police action, especially arrest, in coordination with other criminal justice efforts, became a significant deterrent. He also found, however, that coordinated efforts were not consistently effective. (Cited in Syers and Edleson, 1992, U.S.)

Canadian Research

Grasely et al. (1999, Can.) assessed consumers' perceptions of the integrated model of services for abused women developed by the London Coordinating Committee to End Woman Abuse (LCCEWA), located in London, Ontario. Detailed personal interviews were conducted with 105 women who experienced abuse by their partners while living in the London area. The study found high consumer satisfaction with many aspects of the service offered through the member agencies of LCCEWA. The researchers concluded that the integrated model of services was viable and working well to provide appropriate support to the people for whom it was designed. They did found variations in the quality of service offered to abused women by different community agencies and service professionals, both inside and outside the LCCEWA member network, as well as some inconsistency in the number and types of referrals made by service-providers.

Luton (1996, Can.) also evaluated the integrated model developed by the London Coordinating Committee to End Woman Abuse, focusing on the implementation of the model itself and the feedback of the member agencies. As part of the evaluation, 31 taped interviews were conducted with 24 member agencies and three focus groups were held. Luton found a strong shared political vision to ending domestic violence and effective formal and informal relationships between all parties. She also found a number of challenges related to involving and coordinating the many participants. These included ensuring that all relevant sectors and service-providers were involved while maintaining some control over the size of the coordinating committee; ensuring that the collaborative work did not become an overwhelming burden for the participants; and maintaining member adherence to the basic principles of the Coordinating Committee, particularly a central commitment to victim safety.

Implementation Challenges

As the Luton evaluation of the London, Ontario program identifies, there are several significant challenges involved in establishing a coordinated community response. The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) says that "jurisdictions should be under no illusion that co-ordination and partnership are easy." (p. 39). The Working Group points to the difficulty of melding the criminal justice system's focus on the offender and crime with the community's interest in victim empowerment

and support and says that any model must be vested with the authority necessary to make large systems work together. The Working Group concludes, however, that it would be even more difficult to ensure "a sustainable response to spousal abuse in the absence of an overall co-ordinated structure or model." (p. 39)

Much of the research on CCRs comes out of Duluth, Minnesota, based on years of work at the Domestic Abuse Intervention Project (DAIP). Researchers examining that project have identified a number of challenges related to CCR development. (Shepard and Pence, 1999, U.S.) These include: establishing policies and protocols; enhancing networking; developing computerized monitoring and tracking processes; creating effective advocacy and treatment programs; and evaluating the efforts. Articles elaborating on these difficulties point to the same underlying issues identified by the Working Group: many players must be involved in a successful CCR; the institutions involved are often large and unwieldy; and the participating organizations and institutions have different and often conflicting cultures and mandates. Writers focused on the Duluth experience (Shepard and Pence, 1999, U.S.) have put forward a long list of strategies for dealing with the co-ordination and organizational challenges involved in CCRs. Several key points seem to be common across the literature. Successful CCRs remain focused on victim safety and offender accountability; attempt to be inclusive and tolerant of the cultural differences of the organizations involved; accept that changes take a long time; are flexible enough to respond to emerging needs and changing realities; ensure that requests made of participating organizations are practical and reasonable; and are anchored by a highly skilled staff and volunteer team.

Best Practices

Key Elements

According to the literature, there appear to be two important and complementary streams of activity which must take place in order for a CCR to be effective. Criminal justice programs and procedures, such as pro-arrest policies and rigorous prosecution, must be put in place at the same time as community coordination efforts, such as inter-agency protocols and procedures and monitoring and tracking systems, are implemented. Each stream supports and complements the work of the other. (Ad Hoc Federal-Provincial-Territorial Working Group, 2003, Can.; Shepard and Pence, 1999, U.S.)

The Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) puts forward the following as key activities of a co-ordinated community response:

- Creating a common philosophical approach that centralizes victim safety
- Establishing consistent policies and protocols for intervening agencies
- Enhancing networking among service providers
- Building monitoring and tracking systems that strengthen system accountability
- Speaking out for battered women within the criminal justice system and within the broader community to ensure a supporting infrastructure
- Providing sanctions and rehabilitation opportunities for abusers

- Undoing the harm violence to women does to children
- Evaluating the co-ordinated community response for victim safety and offender accountability

Other writers have also highlighted the importance of victim and victim advocate involvement in ongoing coordinating efforts; the crucial need for paid staff, especially a project coordinator, as the coordination and monitoring work is quite labour-intensive; and the need to involve middle mangers and frontline workers in problem-solving discussions. (Gamache and Asmus, 1999, U.S.; Mederos et al. 1999,U.S.; Hart, 1990, U.S.)

Hart (1995, U.S.) maintains that along with their ongoing collaborative activities, coordinating bodies must help ensure the sensitivity of responding agencies to issues of race, language, religion, culture, class and ability. Research indicates that this is an important point, as several studies have highlighted the gaps in services and discrimination faced by women of colour, Aboriginal women, lesbians, those who can't speak English, women from religious minorities, the poor, the differently abled and other marginalized groups. (Nurius and Asplund,1994, U.S.; West, 1997, U.S.; LaRocque, 1994, Can.; National Clearinghouse on Family Violence, 1997, Can.; Chesney et. al., 1998, Can.; Rivers-Moore, 1992, Can.) As well, research has highlighted the lack of culturally and racially sensitive batterers' treatment programs. (Mederos, 1999, U.S.)

Organizational Structure

There is some debate in the literature about the most effective CCR structure. It is important to keep in mind, as Clark et al. (1996, U.S.) have pointed out, that many CCRs are in the early stages of development and there is not yet definitive evidence of the best structure for promoting and maintaining a coordinated system. According to the Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.), most Canadian jurisdictions have developed regional or local committees to promote the implementation of a co-ordinated community response. Such committees generally have representation from the criminal justice system and community organizations. In some cases, representatives from other disciplines, such as education, social service and health, are also involved.

Hart (1995, U.S.) identifies five possible coordinating approaches. These models are not mutually exclusive; elements of each may be employed by a community at any given time.

Community Partnering

- A community domestic violence program identifies a strategic plan for community action and partners with individuals and organizations in the community to accomplish the various components of the plan.
- Task-specific work groups are established which utilize the expertise of community members.

- From planning through execution, the work is collaborative and decentralized but the domestic violence program orchestrates and oversees the various activities.
- Benefits include: people volunteer for the work, rather than being drafted, which enhances teamwork; the work groups are not public forums so that public posturing and turf issues are minimized; there is no formal infrastructure and therefore the approach is less costly and more manageable by grassroots organizations.
- This is the approach most often taken by domestic violence coalitions and programs.

Community Intervention

- A private sector program, designed to enhance justice system accountability to battered women, orchestrates and oversees coordinated community initiatives related to domestic violence. Intervention programs differ from the partnering initiatives outlined above in that they usually provide direct services to batterers, focusing on cessation, surveillance and batterer education. They often do not provide services and advocacy for battered women but instead develop strong partnerships with shelters and other organizations who provide those programs.
- The intervention program works with all sectors of the justice system. Elements of the work include the development, implementation and monitoring of protocols and practice guides with each component; training of all staff in every component on domestic violence, the goals of the intervention and the changes in job responsibilities and methods entailed in the reform; outreach to batterers in the civil and criminal justice systems, as well as education or treatment groups; training and monitoring of the educators or therapists working with perpetrators; tracking of batterers and automation of data retrieval on batterer status in both civil and criminal justice systems; outreach, information and referral to battered women to enhance safety and autonomy; and community education and media initiatives to transform public understanding and response to domestic violence.
- As in the community partnering model, a grassroots organization is at the hub of all activity. The intervention staff are responsible for the communication and coordination between all the partners. They negotiate changes to systems and procedures, convene meetings of the whole as necessary, and undertake independent evaluations of systemic function and coordination.

Task Forces or Coordinating Councils

- Task forces seek to coordinate all components of the criminal justice system to improve justice system practices and to better communicate and collaborate in work to end violence against women.
- Task force work almost always begins with an assessment of the state of criminal justice (and/or human services) practice and resources in the community, followed by a report on strengths and weaknesses and recommended changes. A task force may then develop a work plan for incremental change and increased coordination.
- Promotion and development of protocols or guidelines for practice for each component of the justice system is often the first step in a work plan. While each agency retains the authority to develop the protocol for that component, collaboration and feedback

procedures are often put in place. Collaboration in training and problem-solving may also take place.
- Evaluation may be undertaken and systemic reform considered.
- Informal systems of communication, conflict resolution and coordination among task force participants are an important outgrowth of the formal work of the task force.

Training and Technical Assistance Projects

- This approach is targeted at informing and improving the justice system.
- Activities can include legal advocacy training and certification; production of various manuals, handbooks, workshops and seminars; development of training curricula for the various components of the justice system; media campaigns; establishment of clearinghouses; and technical assistance projects to aid policy-makers and practitioners in the design of effective justice and human services systems.

Community Organizing

- These are initiatives which invite members of the general public to actively engage in work to end violence against women.
- Objectives include: an increased constituency of active participants in the work: articulation of a clear message that each citizen can take responsibility to end violence; and increased public dialogue and awareness about the causes of violence against women and the power of the community to end it.
- This approach often originates in domestic violence programs. It sometimes addresses a specific problem and sometimes attempts to raise the consciousness and change the practices of the entire community. Often the organizing effort is passed over to the community.
- Among all the coordinated community approaches, organizing projects have perhaps best engaged communities of colour and other marginalized populations in full partnership.

Gamache and Asmus (1999, U.S.), in writing about the Duluth experience, also discuss various coordinating models and approach. They are somewhat critical of the coordinating council approach, in which a committee of representatives from the agencies, departments and community groups dealing with domestic violence is created to lead the coordinating effort. They point out that such a process is not guided by an external, monitoring, advocacy agency and does not necessarily facilitate ways to overcome the existing power dynamics in the criminal justice system. They also say that a formal council structure may lack a shared understanding of domestic violence and a core group of people who will maintain a focus on victim safety as the cornerstone of the project and that smaller grassroots groups may not have the time or resources needed to effectively participate in a council, leading to frustration among the larger players. According to Gamache and Asmus, there are some advantages to having an outside group take the lead and facilitate communication between the various CCR components. The staff of such an organization can raise sensitive issues with the various participants that those participants might not feel comfortable raising with each other.

Pence and McDonnell (1999, U.S.), also writing about DAIP, make a critical point about coordinating systems and approaches, saying that victim safety, not improved system efficiency, must be the primary goal. They say that if reform success is judged solely by such measures as increased arrests, improved conviction rates or reduction in repeat cases, reformers may lose their focus on victim safety and empowerment. "When reform efforts focus on coordinating the system rather than on building safety considerations into the infrastructure, the system could actually become more harmful to victims than the previously unexamined system." (p. 41)

Conclusion

A focus on victim safety seems to be the common factor in much of the literature on coordinated community responses. A daunting number of participants, components and activities can be involved in CCRs and it is important to have a shared vision which emphasizes victim safety and offender accountability. Individuals who have been involved in creating and implementing CCRs warn of the dangers of coordination simply as a means of improving system efficiency. Such efforts may actually decrease victim safety.

Although empirical research is lacking, the literature indicates that CCRs which keep victim safety paramount, create comprehensive and inclusive networks based on established protocols and policies, develop efficient tracking and monitoring systems, and support a wide range of criminal justice and community services are meeting with some success in improving community response to domestic violence. As the Ad Hoc Federal-Provincial-Territorial Working Group (2003, Can.) concludes, "an integrated, holistic, co-ordinated response with a shared vision is the most promising means of producing a synergistic effect and an overall reduction of violent behaviour." (p. 39)

SECTION TEN: CONCLUSION

It is difficult, if not impossible, to summarize the findings of a literature review which has focused on such large and complex systems as those which make up the HomeFront project. As this review indicates, the research on many of the HomeFront components is characterized by debates and disagreements, making it almost impossible to state conclusively whether an individual approach or intervention is the best one or whether a certain policy or program has proven to be effective.

Certain themes have emerged from this review, however. Foremost among these is a growing concurrence in the literature that effective reform must be coordinated, drawing in all of the key system and community players. Most researchers agree that reform which occurs in just one part of the system will have little impact on domestic violence and, in fact, may decrease victim safety by bringing victims into the system when the proper supports and procedures are not in place to protect them. Best practices research indicates that any successful community-based, criminal justice intervention must include the following:

- Broad-based collaboration
- Comprehensive victim services
- Effective law enforcement procedures
- Processes focused on offender accountability
- High-quality treatment programs
- Specialized prosecution units
- Specialized probation departments
- Informed and involved judges
- Integrated data collection and distribution
- Evaluation processes and procedures

The literature also acknowledges that such coordinated efforts are extremely challenging. Most writers recognize that developing a coordinated response to domestic violence, centred around the criminal justice system, is an immense and daunting task. To be successful, such efforts must effectively link large, unwieldy criminal justice components with each other and with small, grassroots community agencies. The clash of mandates, cultures and expectations can play havoc with coordination efforts and the logistics of keeping each party involved, informed and working towards the same vision are overwhelming. Nevertheless, the literature indicates that when such initiatives are effectively implemented in a community, they can have a positive impact on addressing domestic violence. That is, they may contribute to increased arrests, convictions and mandated treatment and decreased recidivism.

Some of the most innovative and thoughtful research in this area is currently taking place in Canada. Jane Ursel's comprehensive analysis of the role of the criminal justice system in addressing domestic violence, her arguments for a new paradigm of justice and her descriptions of the ground-breaking work taking place in Winnipeg are seminal contributions to knowledge about domestic violence interventions. Her contention that

women use the criminal justice system repeatedly, and for a variety of reasons, before they make a clear break from their abusive situations is borne out by the victim-focused literature. Her argument that criminal justice responses must be structured to support women throughout the long process of addressing domestic violence, rather than focused on dealing with discrete incidents and individual convictions, is a compelling one. Ursel's scholarship in this area provides important guidance to other jurisdictions attempting to reform and refine their criminal justice response to domestic violence.

Clearly, the work involved in building an effective coordinated community response to domestic violence is sensitive and multi-layered and there are no easy answers. Even Ursel's intriguing research around victim participation runs up against the reality that Canadian criminal jurisprudence allows little room for victims in the prosecution process. The state prosecutes the offender; the victim is not a party to that prosecution. Carving out a larger role for victims in that process, and increasing the system's sensitivity to victim needs, is a mammoth undertaking which should not be underestimated.

In many respects, the debates, dialogues and complexities identified in the literature are overwhelming and call into question the wisdom of even embarking on a coordinated community effort to combat domestic violence. That being said, there is still much in the literature to support such efforts and to guide those embarking on this huge task. While there may not be exact agreement in the academic community about every detail of an effective response, there is concurrence that such broad, coordinated initiatives are a crucial part of the movement to eliminate domestic violence.