

Victim Cooperation and the Prosecution of Domestic Violence  
in a Specialized Court\*

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## ABSTRACT

This paper addresses the role of victim cooperation in the prosecution of domestic violence cases in a specialized court in Toronto, Canada. We first examine what factors predict whether a case will proceed to prosecution. We find 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 of a case being prosecuted are seven times higher than if a victim is not perceived to be cooperative. In the second part of our analysis, we sought to determine the correlates of victim cooperation. We find that the two most important determinants of victim cooperation are the availability of videotaped testimony and meetings between victims and victim/ witness assistance workers. We discuss the implications of these findings for future research and policy initiatives.

## Victim Cooperation and the Prosecution of Domestic Violence In a Specialized Court

### INTRODUCTION

The last several decades have been marked by careful scrutiny of criminal justice responses to domestic violence. Considerable research has examined both the role of police discretion in responding to domestic violence calls and the effect of arrest on recidivism rates (Sherman and Berk 1984; Fagan 1995; see review of arrest studies in Fagan et al. 1995; Garner, Fagan and Maxwell 1995). This attention to police practices, however, has not been paralleled by similar attention to the prosecution of domestic violence and the role that victims of domestic violence play in the criminal justice process.

With the implementation of mandatory arrest policies in many jurisdictions, police-laid charges have flooded prosecutors' offices (Cahn 1992). However, the rate of prosecution for such cases is extremely low, estimated to be less than 10% in many communities (Fagan 1995; Ford 1991; Sherman 1992). Prosecutors often explain low rates of prosecution by emphasizing that victims of domestic violence tend to change their minds about pressing charges, often recanting their testimonies and/or becoming "noncooperative witnesses" (Ursel 1995; Vera Institute 1977). Given that these cases rely heavily on the testimony of the victim, some prosecutors argue that they have no choice but to withdraw the charges when the victim does not cooperate. In fact, at a 1996 National Institute of Justice meeting, there was strong consensus that "the most serious impediment to full prosecution of domestic cases is victims who refuse to cooperate from the start or who change their minds during the course of the case" (Davis, Smith and Nickles 1997:5). Critics of this explanation, however, counter that victims are deterred from cooperating by prosecutors who ignore the realities of domestic violence, contributing to an

environment in which women<sup>i</sup> are re-victimized by the criminal justice process (Field and Field 1973; Ford 1983; Gayford 1977; Hilton, 1989; Lerman 1986).

Despite the commonly-held assumption that prosecutors typically drop cases when victims do not (or cannot) cooperate (Ursel 1995; Vera Institute 1977), few empirical analyses have sought to determine if this is the case. This paper addresses the role of victim cooperation in the prosecution of domestic violence cases by examining case files from a specialized domestic violence court in Toronto, Canada. This court is designed to proceed with prosecutions more easily without the cooperation of the victim. Our objective is to assess whether perceptions of a victim's willingness to cooperate are associated with the likelihood of prosecution, even when the efforts and procedures of a specialized court are designed to address this concern. In the second part of our analysis, we go on to identify the characteristics of those victims who are most likely to cooperate with the prosecution process in a specialized domestic violence court. <sup>ii</sup>

## LITERATURE REVIEW

### Introduction

In understanding the role of victim cooperation in the prosecution of domestic violence, we can draw on past research that has dealt with victim/witness

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<sup>i</sup>.We included gender as a variable in our analyses in order to compare victim cooperation in cases where women were victims compared to those cases in which men were victims. The majority of research, however, has focused on women as the primary victims of domestic violence and the distribution of our sample supports this: women make up 91% of our sample of victims. Thus, throughout, we refer to victims using the female pronoun.

<sup>ii</sup>. Some may suggest that, by using the term 'victim cooperation,' we are implicitly blaming those victims who do not cooperate with the criminal justice process. We do not wish to imply that victims should always cooperate with prosecutions, nor do we wish to imply that victims should not be free to determine their degree of involvement in the prosecutorial process. Rather, our goal in this paper is to contribute to a better understanding of the role that victims of domestic violence play in the prosecutorial process, and a better understanding of the relationship between prosecutors and victims in responding to domestic violence.

cooperation and the prosecution process more generally. Case attrition at the prosecution stage of the criminal justice process has been the subject of considerable research. For the most part, these studies have either dealt with crimes in general (Albonetti 1986; Albonetti and Hepburn 1996; Forst, Lucianovic, and Cox 1977; Myers and Hagan 1979) or with sexual assault in particular (Frohman, 1991; Kingsnorth, MacIntosh, and Wentworth 1999; Spears and Spohn 1997), and have highlighted some of the general factors associated with the likelihood of prosecution, including the role of victim/witness cooperation. Yet, whether the findings from this research can be generalized to domestic violence is an open question, since violence between intimates may have distinctive features. For instance, past studies have indicated that prosecutors are less likely to pursue cases generally when there is a prior relationship between the victim and the accused (Davis and Smith 1981; Elliot 1989; Vera Institute 1977). Davis and Smith (1981) showed that the presence of a prior victim-offender relationship led to less serious case assessments in prosecutorial screening, even after controlling for victim injury and weapon use. In domestic violence cases, however, it may be that the intimate nature of the relationship, rather than its existence, affects the likelihood of prosecution (Stanko 1982). In other words, it may be that the nature of the victim's prior relationship with the accused persuades a prosecutor that she may choose to resume this relationship and may, subsequently, recant her testimony (Schmidt and Steury 1989) because intimate partner relationships are often characterized by frequent and intense interaction (Silverman and Kennedy 1993).

There continues to be much speculation about what factors predict whether a domestic violence case proceeds to prosecution. Some suggest that concerns about victim safety influence the decision to prosecute out of fear that further criminal justice intervention will lead to escalation of the violence (Ellis 1984). In contrast, some researchers contend that prosecutors have historically perceived battering as inappropriate for criminal prosecution because it is viewed as a private family

matter or a minor dispute that is difficult to prosecute due to a lack of victim cooperation (Cahn and Lerman 1991; Macleod 1983). Still others have explained the difficulty in prosecuting these cases as the result of a 'self-fulfilling prophecy' in which prosecutors' beliefs that victims will not cooperate reinforce victims' negative views of the criminal justice system, thereby discouraging them from following through at the prosecutorial stage (Cahn 1992; Ellis 1984). Finally, the prosecution process has been described as haphazard or random, an event over which the victim has little control (Ford 1983). As a result, it may not be possible to discern an underlying logic in the determinants of a case being prosecuted other than attributing it to "the luck of the draw" (Ford 1983: 467). Therefore, the unique factors presented by domestic violence require specific empirical study to examine the complex fabric of assumptions underlying prosecutors' perceptions of victim cooperation and their effect on whether a case proceeds to prosecution.

### Research on Victim Cooperation and the Prosecution Process

What Prosecutors Say: Descriptive Studies. A number of studies explore prosecutors' accounts of the role that victim cooperation plays in the prosecution of domestic violence cases. A survey of Alabama prosecutors found that about half of the respondents stated that they failed to prosecute cases because the victim recanted or was a poor witness (Sigler, Crowley, and Johnson 1990, table 1:448). Other studies have corroborated the finding that victim cooperation plays a pivotal role (Sander 1988; Ursel 1995). For example, using data from the Manitoba Family Violence Court in Canada, Ursel (1995) found that, according to prosecutors, almost 60% of all decisions not to prosecute were due to victim non-cooperation. In these cases, a victim usually refused to testify, recanted or retracted her testimony, failed to attend court, or was not served a subpoena (Table 3.3: 31).

In contrast, a study of domestic violence cases in Arizona from 1987-1988 showed that factors other than victim cooperation, such as incomplete or vague police reports, were noted almost as often by prosecutors in their decision to drop

the charges, and seemed to play an equally important role (Ferraro and Boychuk 1992: 213). In a recent national mail-survey of prosecutors in the United States, 80% of respondents indicated that they would continue to prosecute a domestic violence case even if the victim was uncooperative (Rebovich 1996; 182).<sup>iii</sup> Rebovich (1996) concluded that:

In the recent past, prosecutors were widely thought to be insensitive to the needs of domestic violence victims and negligent in the consistent prosecution of these cases .... the survey results ... demonstrate a growing commitment by district attorneys to vigorously prosecute domestic violence ... [and] a pronounced willingness to move forward in cases in which victims do not participate as witnesses (189).

Similarly, in the evaluation of the domestic violence program in the Quincy District Court in Massachusetts, prosecutors reported that around 30% of the domestic violence cases were dismissed or nolle prossed because the victim requested that the case be dismissed, invoked her marital privilege, or refused to testify (Buzawa et al. 1999: Table 6.9).

Prosecutors' accounts clearly provide valuable information regarding the relative importance of victim cooperation to the decision to prosecute, and there is no reason to assume that these accounts are inaccurate. Yet, the picture they provide may be incomplete; social actors, due to their embeddedness in their daily activities, may be unable to articulate all of the implicit guidelines which inform their behaviour (Bourdieu 1977). In this vein, while self-report data reflect valuable

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<sup>iii</sup>. These findings were, however, subject to significant regional variation, with only 8% of prosecutors in the largest jurisdictions (population over 500,000) agreeing that victim cooperation affected their decision to prosecute, compared to 36% of prosecutors in medium-sized jurisdictions (population between 250-500,000).

information regarding prosecutors' own accounts of why charges are dropped, we need to supplement such data with models that can control for the more complex interplay of factors in the decision to prosecute.

What Prosecutors Do: Multivariate Analyses. While there have been a number of empirical analyses of the prosecution of domestic violence cases, studies have generally focussed on describing the rate at which cases are prosecuted and the characteristics of these cases, rather than analysing the factors that influence prosecutorial decision-making. For instance, in the report on the Quincy District Court mentioned above, the researchers report the distribution of cases that were dismissed or nolle prossed, the reasons for the dismissals, and an analysis of the characteristics of the cases by initial disposition (Buzawa et al. 1999). While this information is invaluable, it is necessary to undertake multivariate analyses of the decision to prosecute in order to better understand the ways in which multiple factors might influence prosecutorial decision making.

While multivariate analyses of victim cooperation in the prosecution process have been scarce, Schmidt and Steury's (1989) examination of 400 misdemeanour domestic violence cases in Milwaukee from 1983-1984 is informative. In their study, multivariate analysis revealed that defendant-related factors, rather than victim-related variables, were more important in prosecutors' decisions to pursue charges. Schmidt and Steury found that the strongest predictors of a case being prosecuted were whether the defendant was present at the charging conference, whether he was intoxicated at the time of the incident, and whether he supported himself financially (505). As such, these findings suggest that a great deal turns on the defendant himself (see also Rauma 1984). "There is much to suggest that the decision to prosecute is largely based on the defendant's past and current actions and choices" (Schmidt and Steury, 1989: 508), and is not a result of 'victim-blaming' (505).

However, Schmidt and Steury's (1989) data do not provide insight into the role of victim cooperation at the prosecution stage of the process. While prosecutors' notations suggested that victims' wishes to drop the charges accounted for nearly half of the cases in which the prosecutor chose not to proceed (p. 495), a variable controlling for victim cooperation was not included in the multivariate analysis and, as a result, was not systematically evaluated. Thus, while Schmidt and Steury's (1989) multivariate analysis suggests that the decision to prosecute is largely based on defendant characteristics, their descriptive data point to victim cooperation as a key issue.

A more recent study based on a specialized domestic violence court in Milwaukee addresses the effects of victim cooperation on prosecutors' charging decisions over two time periods (Davis, Smith and Nickles 1997). In the first time period, the district attorney's office only prosecuted a case if the victim attended the charging conference (64). In the second time period, the policy was changed such that victim attendance would no longer be required in order for cases to be filed; rather, cases would be charged based on the seriousness of the offence, their legal merit and the defendant's prior history. In their multivariate analyses of the charging decision in the first time period, Davis et al. (1997) found that victim attendance was the most important determinant of whether cases were charged, and that other significant predictors were type of offence, defendant's gender, prior convictions, and previous battery arrests for which he was not charged (p. 79); in contrast, police assessments of the victim as intoxicated decreased the likelihood of prosecution. In their analyses of charging decisions in the second time period, where victim attendance was no longer required, Davis et al. (1997) continued to find that victim attendance was the most important predictor despite the change in policy, though none of the criminal history variables remained statistically significant predictors. Victim attendance at the charging conference, then, was found to be a central factor in prosecutorial decision-making, despite an explicit change in prosecutorial policy. Whether a

victim was found to be cooperative by the arresting police officer, however, was not found to predict the likelihood of prosecution in either time period.

### The decision to cooperate

Research is beginning to establish why victims of domestic violence are reluctant to cooperate with the criminal justice system, and the characteristics of those victims who do cooperate. This literature suggests that the victim's decision to cooperate is constrained by concern for her physical, emotional and financial well-being, and is conditioned by her experiences within the criminal justice system. Furthermore, these concerns are not limited to victims of domestic violence, but are often expressed by crime victims generally (see e.g. Davis 1983; Norton 1983).

For victims of domestic violence, however, research suggests that one of the major obstacles they face in cooperating is intimidation by the accused or fear of reprisal if they cooperate (Cannavale 1976; Erez and Belknap 1998; Ford 1983; Singer 1988). Other factors include the criminal justice system's lack of responsiveness to the victims' needs and the "attitudes, comments, opinions or assumptions of criminal processing personnel who deal with battered women" (Erez and Belknap 1998; see also Field and Field 1973; Ford 1983; Byrne et al. 1999); a desire to continue the relationship or to reconcile with the accused (Walker 1979); the economic hardship for the victim and her family posed by prosecution (Chapman 1978; Erez and Belknap 1998); and the socialization of women to live with male violence (Shainess 1977; Walker 1979). In a recent study, three major obstacles to victims' participation in the court system were uncovered: victims found the court process confusing, found the criminal justice system to be frustrating, and were extremely fearful in the time period between the batterer's arrest and the resolution of the court case (Bennett, Goodman and Dutton 1999).

While these studies delineate why domestic violence victims may not cooperate with the prosecution, other studies have focussed on determining the characteristics of those victims who do cooperate. Although one multivariate study

found no association between any victim or case characteristics and the likelihood that victims will cooperate in the prosecution process (Lerman 1986), another study found that victim injury played a significant role in understanding a victim's willingness to cooperate: injured females were three times more likely than uninjured females to continue to cooperate at the prosecutorial stage (McLeod 1983). In the same study, the relationship between the victim and offender was also significant: separated and divorced females comprised the group with the highest level of cooperation – they were also the group for which prosecutors were most likely to file charges. Finally, Goodman et al.'s (1999) multivariate analysis of victim cooperation found that victims were more likely to cooperate when they had social support, when they suffered severe violence, when they had children in common with the abuser, and when they reported higher levels of substance abuse. In short, their analyses revealed a number of victim-related characteristics that are important to understanding the likelihood of victim cooperation.

#### RESEARCH SETTING

The data for this study were gathered from court files of a specialized domestic violence court in Toronto, Canada (hereafter referred to as K-Court).<sup>iv</sup> Prosecution files, which included police investigation reports, were supplemented by files kept by the Victim/Witness Assistance Program (VWAP), described in more detail below.

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<sup>iv</sup>. K-Court is part of the Provincial Court in Ontario. While all criminal matters begin in Provincial Court, only certain offences can actually be tried by a provincial court judge. Offences under the Criminal Code can either be classified as summary conviction offences (e.g. trespassing at night or vagrancy), indictable offences (e.g. murder, forcible confinement, or aggravated assault), or hybrid offences for which the prosecution elects to proceed summarily or by indictment (such as assault, uttering threats, or criminal harassment). The jurisdiction of the Provincial Court in criminal matters is limited to summary conviction offences, hybrid offences for which the prosecution elects to proceed summarily, or proceedings by way of indictment in which the defendant elects, when provided by the Code, to be tried in front of a provincial court judge. Finally, since there are no jury trials in Provincial Court, all trials in K-Court are heard by judge alone.

The K-Court initiative was set up to improve the criminal justice response to intimate partner violence and related crimes. In keeping with the cases that fall within K-Court's operational mandate, domestic violence is defined in this study as violence between intimate partners, and may take the form of assaults, sexual assaults, threats and/or harassment. The term 'intimate partners' includes legally-married spouses, common-law partners or dating couples, whether current or estranged, including same-sex relationships.

The data collection process involved tracking all cases from the initial laying of a charge to final disposition; cases in which all charges were withdrawn by the prosecutor were also tracked, and the reasons for this case attrition were documented based on notations in the court files.<sup>v</sup> Case tracking took place from April 1, 1997 to March 31, 1998, roughly corresponding to the first year of the K-Court initiative. A total of 474 cases were tracked during the one-year period reflecting all police-laid domestic assault and related charges brought to K-Court and completed during the evaluation period.<sup>vi</sup> While operation of K-Court actually began in mid-January 1997, it was hoped that a delayed start in case tracking would provide an opportunity for participants in the project to become accustomed to their responsibilities, so that the general principles and operational goals were more likely adhered to by the time case tracking began. We acknowledge that the case outcome data may still reflect, to some degree, the early evolution of the project.<sup>vii</sup>

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<sup>v</sup>. We recognize that written reports and notes offer researchers a less accurate picture of the case than is available to the prosecutor at the time of his/her decision. However, prosecutors generally noted information clearly and consistently on the primary variables used in this analysis.

<sup>vi</sup>. It is important to note that K-Court does not hear all domestic violence-related charges for the city of Toronto. There are 19 police divisions in Toronto of which only three divisions (52, 14 and 11 division) participated in the specialized court project. Thus, while the sample of 453 cases constitutes the whole population of cases brought to K-Court, it does not represent all charges of domestic violence laid in the city as a whole.

<sup>vii</sup>. The first year of operation of any innovative program, in this case a specialized domestic violence court may be optimal in terms of performance. In other words, people that staff the program may likely to be highly committed. Over time, it is

Data collection involved regular visits to the court office by the two authors to collect data from both prosecutor files and case files kept by the Victim/Witness Assistance Program. Information was gathered on over 70 different variables pertaining to victim, offender and offence characteristics as well as criminal justice variables and outcomes. In addition, interviews were conducted with victims who were prepared to participate in the evaluation. Unfortunately, since it proved extremely difficult and time consuming to locate participants, and to arrange and conduct the interviews, only 60 such interviews were conducted, representing less than 15% of the total sample. While this low response rate prevents us from drawing conclusions from these qualitative data, victims' comments have been drawn upon for illustrative purposes.

#### From Domestic Violence Prosecution in Ontario to K-Court

In Ontario, the Crown Policy Manual (hereafter referred to as CPM), maintained by the Ministry of the Attorney General, provides guidance to prosecutors on how to conduct their prosecutions.<sup>viii</sup> The CPM defines spouse/partner assault as “any physical or sexual assault or threat of physical or sexual assault on a woman or man by anyone with whom he or she has cohabited or had a long term relationship, whether or not they are legally married or living together at the time of assault or threat” (CPM 1993: SP-1, pg.1).<sup>ix</sup>

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possible that people become less committed or high turnover means staff are less well-trained or overwhelmed by workloads. Alternatively, it may be that staff do not get up to speed on the objectives of the new program until it has been running for some time. Regardless of the situation, it should be noted that the external validity of this analysis may be weakened somewhat because of the newness of the project.

<sup>viii</sup>. While not always mandatory – the CPM explicitly states that the policies are not designed to eliminate prosecutorial discretion, or “flexible decision-making at the local level” (CPM 1993: 3) – the Policy Manual provides a general framework within which prosecutors function in the Province of Ontario.

<sup>ix</sup>. Stating clearly that spouse/partner assault “should be treated as seriously as any other serious criminal matter” (CPM, 1993: SP-1, pg. 1), much of the spouse/partner assault Policy is geared toward assisting prosecutors in their relationship with the victim. Providing statistics regarding the likelihood of past victimization suffered by complainants, the Policy states that “[t]hese prosecutions clearly require special

Beyond providing a general framework for prosecutors in dealing with victims of domestic violence, the CPM specifically addresses the “withdrawal of charges” – when ought a prosecutor withdraw charges, and thereby not proceed with a domestic violence prosecution? In Ontario, where it is generally the police that lay the charge, they have been directed to lay charges in these cases, so long as reasonable and probable grounds exist – police discretion beyond that point has been eliminated. It is, however, the prosecutor who determines whether to proceed with the prosecution of the charge. According to the CPM, withdrawing charges of spouse/partner assault, though within the prosecutor’s discretion, “is not appropriate unless exceptional circumstances exist,” and prior to doing so a prosecutor must consult with a more senior prosecutor (the Crown Attorney) or with a domestic violence coordinator (CPM 1993: SP-1, pg. 4); furthermore, although it is the decision of the prosecutor to withdraw charges (the victim does not control the prosecution), the victim *must* also acknowledge, in court, that she wants the charges withdrawn, and must state the reasons for wanting the prosecution terminated.

Stressing the importance of sound prosecutorial discretion in these cases (CPM 1993: 3), in assisting prosecutors to determine whether to withdraw charges in a domestic violence case, the CPM provides a partial checklist of relevant factors to consider. This includes the strength of the case, the history of violent behaviour by the accused, evidence of harassment by the accused once charges have been laid, the extent of injuries suffered by the victim, the reasons that the victim states for not

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sensitivity on the part of Crown counsel when dealing with them.” (CPM, 1993: SP-1, pg. 2), and “Crown counsel are reminded that the victims of spouse/partner assault are frequently ambivalent about the court process” (CMP, 1993: SP-1, pg. 3). Given this frequent ambivalence, “[a]dditional care in listening to [victims’] concerns and explaining the process, though time consuming, is necessary to the conduct of the case” (CPM, 1993: SP-1, pg. 3), and to allay victims’ concerns it is suggested that prosecutors rely on studies that violence declines or terminates when the criminal process is instituted (CPM, 1993: SP-1, pg. 3). In addition, legal mechanisms for dealing with victims/witnesses who fail to appear at trial, and for victims/witnesses who are forgetful, adverse, or hostile at trial, are provided (CPM, 1993: SP-1, pg. 6).

wanting the prosecution to proceed, and the results of an interview between the prosecutor and the victim, in which “Crown counsel discusses the public wrong aspect of domestic violence and tries to respond to any concerns the victim may have” (CPM 1993: SP-1, pg. 4-5).

Though the CPM is designed to provide guidelines to prosecutors across Ontario, the K-Court initiative was designed to provide for a more vigorous prosecution of domestic violence cases and an increase in cooperation between prosecutors and participating police divisions. The initiative is premised on a belief that a commitment to these goals will improve the quality of investigations and will increase the number of successful outcomes.<sup>x</sup> Case screening decisions are made by a small group of prosecutors assigned to K-Court on a full-time basis.<sup>xi</sup> This assignment ensures that cases are handled from start to finish by the same prosecutor assigned to the case early in the process and offers the victim more continuity in the process. K-Court prosecutors are also expected to meet with all willing victims well before trial to discuss the facts of the case, determine the readiness of the victim to testify, answer any questions the victim might have, and present a supportive, understanding position regardless of the victim’s decision to cooperate with the prosecution. The overall objectives are to provide a sense of continuity to the prosecution process, increase the quality of prosecutions, increase

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<sup>x</sup>. A ‘successful prosecution’ refers to those cases in which charges were not withdrawn, even if the victim chose not to testify, and where convictions were secured either through a trial or a guilty plea. This is the language used by those involved in the K-Court initiative.

<sup>xi</sup>. At any given time there were four prosecutors assigned to K-Court, though over the course of the year of the evaluation thirteen different prosecutors were assigned to K-Court. The court itself is presided over by judges who are assigned to K-Court on a rotational basis for one week each month for a period of three months. This approach is intended to keep the same judges involved in K-Court for the length of any one case, thereby keeping the case wholly within K-Court; at the same time, rotating judges out of K-Court during this time avoids identifying them as part of a court designed to successfully prosecute such cases, and allows judges to deal with cases other than domestic violence during this period.

the likelihood that a victim will cooperate with the prosecution, and improve service to the victims.

Central to the K-Court initiative is the systematic collection of evidence by police so that the prosecution need not rely solely on victim testimony. As a result, beginning in the year prior to the K-Court project and continuing through its first year of operation, the prosecutors worked with police at the three participating police divisions to develop new practices for collecting additional evidence. These include detailed descriptions of the crime scene, the seizing of items that may have been used as weapons, photographs (primarily of victim injuries), transcripts of emergency 911 tapes, medical reports, and background information on the victim-offender relationship.<sup>xii</sup> A significant practice emphasized in this court is the procurement of videotaped statements from victims as soon as possible after the incident, provided that the victims agree to be videotaped (audio taping is also considered an alternative). The goal is to have a videotaped statement recorded immediately after the incident or at least within a 24-hour period. The police are responsible for taping victims' testimony and, generally, these informal interviews occur at the police station. In extreme circumstances, the police may videotape victim testimony outside the police station. For example, in one case, the police videotaped the victim's statement in her hospital room where she was taken as a result of the violent incident and was expected to remain for several days. This videotape may be used by prosecutors in lieu of victim testimony in cases where victims cease to cooperate with the prosecution. Prosecutors are committed to more actively pursuing the admission of this evidence at trial, with the expectation that this initiative could lead to both increased convictions at trial and to a higher number of guilty pleas on the strength of the available evidence, without necessarily requiring the victim to testify at trial.

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<sup>xii</sup>. Some of the practices were in place in some or all of the participating police divisions prior to the implementation of K-Court, but they were confirmed as priorities for this project.

A final component of the specialized domestic court is the Victim/Witness Assistance Program (VWAP).<sup>xiii</sup> While this program is not dedicated exclusively to K-Court, this court generates a large proportion of the clients for the VWAP. Victim/witness workers attempt to contact the victims in all K-Court cases, by telephone or by letter, soon after the bail hearing or detention order.<sup>xiv</sup> This can play an important role in preventing future violence, since victims are most open to information about how to reduce their vulnerability immediately or soon after the crime (Davis, Lurigio, and Skogan 1997; Friedman and Tucker 1997).

The role of the VWAP is to provide victims with information about the court process, referrals to community organizations and government agencies, personal escort and support at trial, and support for the victim during meetings with the prosecutor. More specifically, victim/witness workers notify their clients when court appearances are scheduled, solicit their input prior to a guilty plea by their abuser, and offer a tour of the court to make them more comfortable with the process. Where victims agree to meet with the representatives of this program, it is expected that victim/witness workers will provide them with enough support so that they are prepared to and comfortable with testifying at trial. The main objective of the VWAP program, however, is to support the victim throughout the process, regardless of whether she chooses to testify.

## METHODS AND MEASUREMENT

### Variables and measurement

The purpose of our analysis is twofold. First, we examine whether prosecutorial perceptions of a victim's willingness to cooperate increase the likelihood of a case

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<sup>xiii</sup>. This program is funded by the Attorney General of Ontario and is separate and independent of the prosecutors' office. Its mandate is to provide support to victims of crime.

<sup>xiv</sup>. The only exception being cases in which a guilty plea is entered at the bail hearing.

being prosecuted while controlling for a number of legal and extra-legal variables. The dependent variable is coded 1 if the case was prosecuted, meaning that it proceeded to trial (regardless of whether the accused was found guilty or not guilty) or was resolved through the entry of a guilty plea; a case that is not prosecuted will have had all the charges withdrawn by the prosecutor. Since defendants may be charged with multiple offences, we constructed a variable to summarize the dispositions for all the charges in each case in order to determine whether a case was prosecuted. When any of the charges in a case were resolved by trial or guilty plea, we considered the case to have been prosecuted (coded as 1), even if the primary, or most serious charge, was withdrawn. This definition allows us to track cases even if the charges were reduced, and allows us to predict the likelihood that a defendant will be prosecuted on *any* charge related to domestic violence. The variable was coded 0 only if all the charges laid against an accused were withdrawn and, thus, the case was not prosecuted.

The first part of our analysis focuses on the relationship between victim cooperation and the likelihood of prosecution. Whether a victim cooperated was determined after an examination of notes and assessments recorded in both the prosecutor's files and the files from the VWAP office. For example, evidence of the extent of victim cooperation includes notations in the files regarding whether a victim recanted or requested that charges be dropped, or whether prosecutors perceived the victim to be 'hostile' or 'on-side.' The method undertaken in coding these variables does not rely on objective criteria of what constitutes 'cooperation,' in that this determination inevitably involves some subjective assessment by each prosecutor. However, this subjective assessment is precisely what we are interested in assessing – whether prosecutors, when they believe that the victim is not cooperating, decide not to prosecute.

These data were modelled as three separate dummy variables indicating whether the victim fully cooperated (0,1) or was reluctant but cooperated (0,1).<sup>xv</sup> No victim cooperation was the reference category. Hypothesizing that prosecutors may act differently depending on the extent or quality of a victim's cooperation, we defined 'cooperative victims' as those victims who participated in the process from the point of the charge being laid through to the completion of the case by trial or guilty plea. Victims who cooperated, but were reluctant, are those who indicated at some point during the process that they wanted the charges dropped or did not want to testify, but who subsequently participated in the prosecution until the case was resolved. Noncooperative victims are those who had no involvement after the charges were laid, or who were initially involved, but then ceased to cooperate altogether.

The second part of our analysis seeks to identify the demographic or situational factors associated with a victim's decision to cooperate. Here the dependent variable 'victim cooperation' is dichotomized (cooperation = 1), because we are interested in whether victims cooperate, rather than the quality of that cooperation.<sup>xvi</sup> The category of cooperative victims includes both those who cooperated fully as well as those who cooperated but were reluctant. We include similar controls for legal and process variables as well as defendant characteristics in both analyses. These are discussed in more detail below.

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<sup>xv</sup>. A victim's reluctance to continue cooperation with the criminal justice process was usually indicated in the victim/witness assistance files when it was noted that they had to discuss the 'ministry policy' with a client/victim. The ministry policy relates to the mandatory charging initiative in the province of Ontario, and when victims asked that charges be dropped, VWAP workers explained the mandatory charging policy to them and noted this in the file.

<sup>xvi</sup>. To ensure that collapsing the variable in this way did not lose valuable information, separate analyses were run using the trichotomous victim cooperation measure. The results demonstrated that there were few differences in the factors that predicted full cooperation by the victim and reluctant cooperation. This will be discussed in more detail in the results section.

Legal variables. Legal variables include seriousness of offence and strength of evidence. Indicators of offence seriousness are the degree of injury resulting from the incident (see also Rauma 1984; Schmidt and Steury 1989) and the use of a weapon to threaten or assault the victim during the incident. Degree of injury is entered as three separate dummy variables indicating whether the victim suffered ‘minor’ injuries (0,1) such as cuts and/or bruises, or ‘serious’ injuries (0,1) including sexual assaults or injuries requiring medical attention.<sup>xvii</sup> The reference category was comprised of those cases in which no injuries resulted. Use of weapon was also modeled as a dichotomy, with those cases involving threats or assaults with weapons coded as 1, and those involving no weapons coded as 0.

The procurement of additional evidence is a key component of K-Court, and may affect the importance of victim cooperation in this setting. Thus, we introduce detailed measures of available evidence and the presence or absence of witnesses. First, strength of available evidence is measured using seven dummy variables indicating the presence or absence of each type of evidence (presence is coded as 1 for all variables). Evidence variables include statements from victims, statements from others (witnesses or otherwise), photographs of victim injuries and/or the scene of the incident, videotaped victim statements, transcripts of the emergency 911 call, medical records, and other evidence (e.g. background evidence on the victim-offender relationship, etc.). The presence of witnesses is modelled as two separate dummy variables indicating whether the witnesses were adults (0,1) or children (0,1).<sup>xviii</sup> The reference category is ‘no witnesses present.’

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<sup>xvii</sup>. “Minor” is, of course, a relative term when used to describe injuries sustained during a violent incident. Furthermore, a focus on physical injuries ignores the emotional and verbal abuse that a victim may sustain, and which may also affect a victim’s willingness to cooperate.

<sup>xviii</sup>. The presence of children in the home or as witnesses to violent incidents may also be an important predictor of victim cooperation (Goodman et. al, 1999) and of the prosecution’s decision to proceed with a case. However, while the authors gathered this information where possible, it was not consistently noted in the files. Therefore, the high proportion of missing data precluded including this variable in our models. Future research should strive to collect such information as the

Process Variables. The frequency and/or occurrence of interactions between victims of domestic violence and criminal justice officials may also influence both the likelihood of prosecution and victim cooperation. A victim who is willing to meet with representatives of the court may be perceived as more cooperative. On the other hand, if a prosecutor or victim/witness assistance worker involves the victim in the process, she may feel more positive about the experience, increasing her willingness to continue cooperation. One objective of the K-Court project is to work more effectively with victims and, thus, information on meetings between victims, prosecutors and VWAP workers were regularly recorded. These variables were included as separate dichotomous variables (meetings = 1) in both logistic regression models to capture whether such meetings affected the likelihood that a case would be prosecuted and, more importantly, whether a victim cooperated.

Defendant Characteristics. As noted earlier, prior research has identified a number of defendant characteristics that may affect whether a case proceeds to prosecution (Ellis 1984; Schmidt and Steury 1989; Stanko 1982). Three variables were available in this study for analysis and are introduced as controls: the defendant's relationship to the victim as well as the age and gender of the defendant. Age is measured in years and gender is a dichotomous variable (male = 1).<sup>xix</sup> Because the nature of the victim-defendant relationship is of particular interest in cases of domestic violence, we use more refined categories than previous research to determine if some types of intimate relationships are prosecuted more often than

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presence of children may be an important factor in predicting victims' actions in cases of domestic violence.

<sup>xix</sup>. There were too few cases to run separate analyses for male victims of domestic violence, thus, we introduced gender as a control. We are not suggesting that male victims have similar experiences within the criminal justice system, rather we want to determine if they are more like to have their cases prosecuted or were more likely to cooperate than female victims.

others and if relationship type affects the victim's decision to cooperate. With legal spouse representing the reference category, separate dummy variables are entered for ex-legal spouse (0,1), common-law partner (0,1), ex-common-law partner (0,1), boyfriend/girlfriend (0,1) and ex-boyfriend/girlfriend (0,1).

Finally, research has shown that a defendant's criminal history is often related to the decision to prosecute (Rauma 1984; Schmidt and Steury 1989). We constructed dummy variables for prior domestic record (0,1)<sup>xx</sup>, other violent record (0,1) and non-violent record (0,1). These dummy variables are mutually exclusive; for instance, where an individual was convicted of both domestic violence and assault, we classified the conviction as "domestic violence." No prior record is the reference category.

#### THE SAMPLE

Table 1 provides an overview of sample characteristics and bivariate relationships among the independent and outcome variables. As expected, the vast majority of victims in our sample were women, comprising 91% of the sample while males made up 93% of the defendants. The average age of the victim was 33 years, while the youngest victim was aged 15 and the oldest aged 75. The average age of the defendant was 35 years with the youngest defendant aged 18 and the oldest aged 75. Overall, victims and defendants were slightly older in our sample than in other studies (see Schmidt and Steury 1989).

Almost half of the defendants had been previously involved with the criminal justice system, including charges for both violent and non-violent offences; 17 percent had prior domestic offenses. Many of the victims and defendants in our sample were or had been in common-law relationships (42%), and close to one-quarter of the couples were estranged at the time of the incident. Forty-six percent

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<sup>xx</sup>. Prior domestic record indicates that the offender had been convicted of a previous domestic violence offence involving either the same victim or a different victim.

of victims in our sample suffered minor injuries including bruises, cuts and black eyes, and weapons were used to threaten or assault a victim in about 16% of the cases. Witnesses were present in 42% of the cases; the majority of these were children of the victim and/or offender.

Eighty-three percent of the cases proceeded to trial or were resolved through a plea agreement; the other 17% were withdrawn. The proportion of cases prosecuted in K-Court is higher relative to other studies on the prosecution of domestic violence (Fagan 1995; Ford 1993; Sherman 1992), but it is not surprising given that this is a specialized domestic violence court with a vigorous prosecution policy. Furthermore, as mentioned earlier, even if a number of the charges in a particular case were withdrawn, as long as at least one of the domestic violence charges was resolved by trial or guilty plea, the case was considered to have been prosecuted.

In 32% of all cases, the victim met at least once with the prosecutor and in half of all cases she met with representatives of the victim/witness assistance program.<sup>xxi</sup> It is important to note, though, that victims who met with prosecutors and victim/witness assistance workers did not necessarily cooperate with the prosecution – victims may have attended these meetings in order to request that the charges be withdrawn.

Based on the available data, approximately 55% of all victims cooperated with the prosecution.<sup>xxii</sup> This includes both those victims who cooperated from the beginning and continued to do so throughout as well as those victims who were initially reluctant, but subsequently cooperated with the prosecution. In the

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<sup>xxi</sup>. As part of the VWAP's mandate to meet with all victims willing to do so, all K-Court victims were contacted by mail or telephone to arrange a meeting with program workers. However, since some victims declined to meet, and since others could not be located by the VWAP, program workers only met with half the victims in this sample.

<sup>xxii</sup>. This variable was missing data in approximately 30% of cases. The procedures used to deal with this missing data and the implications of this are discussed below.

remainder of cases, the victims either had no involvement with the process or asked to have the charges dropped and disengaged from the process.

**[- Insert Table 1 about here -]**

#### THE DECISION TO PROSECUTE

##### Findings

Table 2 reports the findings from five separate models predicting the likelihood of prosecution in cases of domestic violence. We employ logistic regression, a technique commonly used for dichotomous and highly-skewed outcome variables, which allows us to predict the odds of an event occurring (Demaris 1992). Since three of our independent variables (victim cooperation, evidence, and presence of witnesses) had missing data for over 10% of cases, our models include dummy variables for each of these variables that are coded 0 if data are present and 1 if the data are missing (Cohen and Cohen 1983; Orme and Reis 1991). This is a strategy that allows us to retain the maximum sample size, increase statistical power, reduce bias in estimation of regression parameters and to provide a test of the extent to which data are missing randomly (Orme and Reis 1991). The missing value dummies are shown in each of the two logistic regression tables, and the extent of missing data is displayed in Table 1, both for victim cooperation,<sup>xxiii</sup> evidence and presence of witnesses.<sup>xxiv</sup>

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<sup>xxiii</sup>. The results of our analyses indicate that there is a significant negative correlation between missing data on victim cooperation and the variable for meetings with victim witness assistance workers. This means that cases in which data were missing on cooperation were more likely to be cases in which the victim did not meet with the victim/witness assistance workers (see Orme and Reis, 1991). As Table 2 indicates, the regression coefficient for missing data on the victim cooperation variable is nonsignificant, which indicates that after controlling for other variables, there is no significant difference between dependent variable means for subjects with missing data on the victim cooperation variable compared to the dependent variable mean of the reference group (Orme and Reis, 1991:78). This pattern suggests that the missing data are not missing in a systematic manner and, as a result, our obtained sample should be representative of the population sampled (Orme and Reis, 1991:84). As a further check, we conducted a sensitivity

The first model examines the relationship between the severity of the offence and the decision to prosecute using controls for defendant and case characteristics. As indicated in the first column of Table 2, male defendants are more likely to be prosecuted than female defendants. The second model introduces variables controlling for the relationship between the victim and offender. The findings indicate that if the case involves a boyfriend/girlfriend relationship or an ex-common-law partner, the accused is less likely to be prosecuted for the offence compared to an accused who is legally married to the victim. Defendant age is significant (older offenders are less likely to be prosecuted than younger offenders) and gender remains significant.

The third model introduces nine legal variables. The only legal variable with a significant effect on prosecution is the availability of videotaped statements, which increases the likelihood of prosecution. As in the prior equation, being in an ex-common law or boyfriend/girlfriend relationship continues to decrease the likelihood of prosecution. Again, gender and age of the defendant are significant in this model, controlling for victim-offender relationship and the presence of other types of evidence. The fourth model incorporates the process variables and shows that if a victim meets with representatives of the VWAP, the case is more likely to be prosecuted.

The final model incorporates the victim cooperation variables. This model demonstrates that in cases in which the victim cooperates, the odds of prosecution are more than seven times higher than if a victim does not cooperate. In other

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analyses, excluding those cases with missing data on victim cooperation. The results of the analysis on this subset of cases with complete data on victim cooperation were substantively the same as the results using the larger sample; in particular, the effects of victim cooperation remained significant.

<sup>xxiv</sup>. The missing data dummies for evidence and witnesses were not significantly correlated with any other variables and the regression coefficients were nonsignificant, which indicates that these data are missing randomly and do not bias our sample.

words, controlling for other relevant factors, victim cooperation is independently and positively associated with the likelihood of prosecution. All other previously significant variables continue to have an effect on the likelihood of prosecution. Although our models cannot speak to the effects of other variables beyond the scope of our data (such as individual victims' perceptions of safety, or victims' hopes that offenders will receive counselling), our analysis demonstrates that neither defendant characteristics nor offence seriousness predict the likelihood of prosecution.

**[ - Insert Table 2 about here - ]**

These findings are important not simply because they highlight the key role played by victim cooperation in the likelihood that a case will proceed to prosecution. Rather the association between victim cooperation and prosecution demonstrated in our analysis is important because of the setting from which these data were collected: a specialized court, dedicated to prosecuting cases even without victim cooperation. Our findings suggest that, even within a setting mandated to proceed without victim cooperation through the use of other evidence, victim cooperation continues to play the most significant role in whether a case is prosecuted.

#### VICTIM COOPERATION

Our multivariate analysis confirms prior research suggesting that victim cooperation in cases of domestic violence is one of the key factors related to the likelihood of prosecution. In this section, we examine the correlates of victim cooperation during the prosecution process. Our goal is to determine what demographic, situational or process variables are associated with victim cooperation in the prosecution of domestic violence. Our analysis is restricted to the

304 cases of domestic violence heard in K-Court for which we had information on victim cooperation.<sup>xxv</sup>

In the model predicting victim cooperation, our dependent variable is coded 1 if the victim cooperated with the prosecution and 0 if the victim did not cooperate. Here, the variable representing victim cooperation is dichotomized because we are interested in the determinants of any victim cooperation, rather than the quality of that cooperation. Victim age (measured in years) and victim sex (female =1) replace the variables for offender age and offender sex included in the first analysis. All other variables remain identical to the first analysis.

### Findings

As indicated in Table 3, none of the demographic or situational characteristics are significantly associated with victim cooperation once we control for the legal and process variables. Victim age is significant in the first three models (older victims are more likely to cooperate), but becomes non-significant once process variables are introduced. However, only one of the two criminal justice process variables are significantly related to the likelihood that a victim of domestic violence will cooperate with the prosecution. That is, the odds of a victim cooperating are more than three times higher if the victim met with representatives of the victim/witness assistance program. Moreover, if the victim gave a videotaped statement, the odds of subsequent cooperation are also significantly higher. In the full model, no other variable is significantly associated with victim cooperation.<sup>xxvi</sup>

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<sup>xxv</sup>. The cases for which data was missing on victim cooperation were dropped from the analysis.

<sup>xxvi</sup>.As noted previously, to ensure that collapsing the victim cooperation variable in this way did not lose valuable information, we ran a separate analysis that distinguished between victims who cooperated and those victims who cooperated, but did so reluctantly. The two key predictors for both categories of victims when examined separately were the same as those identified in the analysis using the collapsed victim cooperation variable. That is, if a video-taped testimony was available as evidence or victims had met with victim/witness workers, they were

[ - Insert Table 3 about here - ]

DISCUSSION

In this paper, we first assessed the role of victim cooperation in the decision to prosecute domestic violence cases. While it is commonly argued that lack of victim cooperation is the primary reason prosecutors choose not to proceed in cases of domestic violence, there has been little systematic analysis of this issue (see Davis, Smith and Nickles 1997). Using multivariate analysis to control for other factors relevant to the likelihood of prosecution in a specialized domestic violence court, we found that victim cooperation is a significant predictor of a case proceeding to prosecution. In this sample, when victims cooperated, prosecutors were seven times more likely to pursue charges, even after taking into account the effects of defendant characteristics, the victim-defendant relationship, type of evidence, and the presence of witnesses. This finding is especially interesting given that our data are derived from a court designed to minimize the importance of victim cooperation in the prosecution of domestic violence cases.

Having found that victim cooperation continues to be a significant predictor of whether a case is prosecuted in our sample, the second part of our analysis sought to determine the factors associated with the victim's decision to cooperate with the prosecution. In contrast to past research, findings from our analyses demonstrate that neither demographic nor situational correlates of the incident were associated with victim cooperation. Rather, the two most important determinants of victim cooperation were the availability of videotaped testimony and meetings between victims and victim/witness assistance workers.

One interpretation of these findings is based on common sense: those victims who agreed to meet with victim/witness workers, or were willing to have their testimony videotaped for evidence, are precisely those victims who were more likely to cooperate with the prosecution in the first place. In other words,

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more likely to cooperate with the prosecution. The one difference was that the availability of an emergency 911 tape predicted greater cooperation by reluctant victims, but not victims who cooperated fully.

cooperative victims tend to cooperate. However, from both research and policy perspectives, a fuller explanation is necessary – how might we explain the positive effects of videotaped statements and meetings with victim/witness assistance workers on victim cooperation?

### Videotaped Testimony and Victim Cooperation

In exploring the correlates of victim cooperation, our analysis demonstrated that victims were more likely to cooperate when prosecutors had videotaped testimony from the victim available as evidence. The significance of this variable in predicting victim cooperation may be explained through the complex relationship between prosecutors and victims of domestic violence. Some have argued that victim non-cooperation may arise due to a ‘self-fulfilling prophecy’ that begins with the actions and attitudes of prosecutors and other criminal justice officials (Buzawa and Buzawa 1996; Ellis 1984; Ford and Regoli 1993). From this perspective, prosecutors’ assumptions that the victim is not committed to cooperating reinforce victims’ negative impressions and general distrust of the criminal justice system, thereby discouraging them from following through at the prosecutorial stage. Many victims may be intimidated by the criminal justice system and, thus, are uninformed as to what they are expected to do (Cannavale 1976; Erez and Belknap 1998). As the following statements demonstrate, when faced with an ambivalent prosecutor, such victims may conclude that the prosecutor is not committed to their case and may consequently disengage from the process:

“I didn’t find her (the prosecutor) very helpful. I provided names of witnesses and told her about the doctor’s report, but she never followed up.” (Case 98)

“I never got the information I wanted from him (the

prosecutor). I had to go to go elsewhere (victim/witness office) for information. In fact, I cornered him one day to ask him a question and he still didn't have time to speak with me." (Case 85)

In contrast, when the victim has already agreed to have her testimony videotaped, a prosecutor may be less inclined to question her commitment for two reasons. First, the prosecutor may perceive the victim's videotaped testimony as an indication of her commitment to the prosecution and her role in the process. Alternatively, the prosecutor may be less inclined to question the victim's commitment since the availability of videotaped testimony minimizes prosecutorial reliance on victim cooperation altogether. In other words, should the victim recant, the videotape may stand in lieu of the victim's testimony. The victim, as a result, is not perceived as the 'weak link' in the process, and the prosecutor's treatment of the victim may lead her to be more inclined to cooperate throughout.<sup>xxvii</sup>

#### Victim/Witness Assistance and Victim Cooperation

Our analysis also indicated that victims who meet with victim/witness workers are more likely to cooperate with the prosecution. It may be that victims who meet with victim/witness workers gain the support they need to follow through with the prosecution of their abusive partners – legal advocacy programs have been commonly used for victims of crime that occur in the private sphere, particularly against women and children (Sebba 1996; U.S. Department of Justice 1995). Research has shown that in cases of domestic violence, victims are often fearful and anxious about the criminal justice proceedings and the support of victim advocates may help them negotiate the system with less difficulty (Tomz and McGillis 1997).

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<sup>xxvii</sup>. To verify this interpretation, one would need to hear from the prosecutors themselves. While interviews were conducted with prosecutors involved in K-Court as part of the larger evaluation, this information was not systematically recorded and, thus, is not available for analysis.

Advocacy programs have been instituted as a resource for victims so that they understand their options and can make informed decisions that will ensure their safety and/or improve their lives (Tomz and McGillis 1997; U.S. Department of Justice 1998). Moreover, battered women are often concerned about their safety and are uncertain about their future if their abusive partners are charged and/or convicted. Information about the criminal process, community service programs and shelters is, therefore, critical.

Tomz and McGillis (1997) argue that without the support of victim advocates, witnesses who are already inconvenienced, distressed by their involvement with the courts, or afraid that they will suffer reprisals from the defendant if they appear, will fail to testify. Meeting with victim/witness advocates, however, may foster an environment in which victims may be more likely to continue cooperating with the prosecution, which may lead to fewer cases dismissed for lack of “prosecutability” (Tomz and McGillis 1997). This interpretation is supported by the following statements from victims interviewed as part of the evaluation of K-Court:

“They (victim/witness workers) made me feel comfortable and were encouraging. If not for the victim/witness people, I wouldn’t have gone through with it. I had a hard time understanding what was going on. They were patient and explained everything to me. The experience was not as bad as I thought it was going to be because of the support I got from them.” (Case 146)

“I did not want to testify on the date of the trial. They convinced me that he (her abuser) needed help and would only get that help if I testified against him.” (Case 99)

“The victim/witness people were very nice and

accommodating ....having a victim/witness worker there made it easier for me to face him...they made the process less intimidating.”(Case 313)

“She (victim/witness person) was very helpful the day of the trial. She stayed with me through the whole thing and I found this calming.”  
(Case 446)

Finally, it has been argued that women have been socialized to live with male violence (Shainess 1977; Walker 1978, 1979). However, advocacy programs such as the victim/witness assistance program may be able to inform victims that other options are available. The following portrays the message given to one woman by VWAP workers:

“The victim/witness people explained to me that I have rights and that I don’t have to put up with being abused. I always thought that it was my fault...that I asked for it somehow. I have been beaten my whole life...I didn’t know any better.” (Case 166)

While there has been little concrete research on the effects of victim/witness assistance programs or other types of crisis intervention programs (Young 1990), a recent study on the prosecution of child sexual abuse from 1983-1989 found that the introduction of the victim/witness assistance program doubled the success rate at trial for these cases (Dible and Teske Jr. 1993). Such programs, therefore, may not only increase the likelihood of victim cooperation, but may also contribute to the strength of the prosecution as a whole.

## CONCLUSION

This analysis examines a specialized domestic violence court in one city, and may not necessarily reflect dynamics in other jurisdictions. However, we believe that our findings may have general implications beyond this particular context. Our findings stress the importance of victim cooperation to prosecutorial decision-making; on a policy level, then, we must pay special attention to the determinants and correlates of such cooperation. Two main issues flow from these findings. First, our data demonstrate the importance of victim/witness programs for victim cooperation. Continued evaluations of victim assistance programs are, therefore, needed to further specify the relationship between such programs and victims' willingness to cooperate (Sebba 1996). If victim/witness assistance programs are indeed successful in making the criminal justice process less intimidating for victims, it may be desirable to increase funding to such advocacy agencies so that increased support is offered to victims of violence generally. Second, if the availability of videotaped statements has, as we have suggested, a positive influence on the interaction between prosecutors and victims, then continued and increased use of this procedure in courts would be beneficial; where this practice has not been instituted, training for police and prosecutors regarding the uses and procedures for such evidence should be undertaken.

The response of criminal justice officials can make a difference to victims' willingness to cooperate; as Erez and Belknap (1998:264) demonstrate, helpful responses can encourage domestic violence victims to "sustain the frustration they face, or withstand the difficulties they have to overcome to reach a satisfactory solution." Research has shown that the responsiveness of criminal justice personnel to victims' needs is an important predictor of cooperation for victims of crime; victims who do not receive sufficient information, or who are not recognized as a party to the process, may disengage or cease to cooperate (Norton 1983; Sebba 1996; Shapland et al. 1985).

Of course, we must not narrowly focus on the prosecutorial process. One

victim's comment highlights the fact that interactions with other criminal justice personnel are also pivotal:

“The Crown and the victim/witness people can only be effective if the initial contact with police is a positive experience. Otherwise, we (the victims) are intimidated and scared off. The police are often the weak link in the chain.” (Case 407)

To be effective, then, policies that seek to improve the criminal justice response to domestic violence need to be informed by the experience of victims throughout the process. Such an approach will help us to better address the issue of victim cooperation – in focussing on the prosecutorial process, our paper has demonstrated the continued importance of such research. Having focussed on a specialized domestic violence court in Toronto, this paper presents us with an important case study that should spur future research on domestic violence. Such research should continue to focus on the determinants of both prosecutorial decision-making and victim cooperation, both in and out of specialized courts. As this case study demonstrates, how individual victims and prosecutors respond to criminal justice initiatives matters a great deal, a point that ought not to be lost in criminal justice policy-making.

## Footnotes

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