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ESTABLISHING CANADA'S FIRST INTEGRATED DOMESTIC VIOLENCE COURT: EXPLORING PROCESS, OUTCOMES, AND LESSONS LEARNED

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***Abstract:** The establishment of domestic violence courts has resulted in significant improvements in responses to family violence, but these courts have generally dealt only with criminal cases and do not address the risks that the victim and children may face in family proceedings. In some locations in the USA, courts have been established to deal with both criminal and family proceedings that arise from a domestic violence situation. This paper describes and analyzes the establishment of the first court in Canada that hears both criminal and family cases concerning families where there are domestic violence issues. The authors report on a study of the views and experiences of 21 stakeholders (judges, Crown, criminal and family lawyers, community supports, victims, and offenders) involved in the Integrated Domestic Violence Court in Toronto. The participants generally report that the Court provides a better approach to dealing with domestic violence post separation, though there are some concerns expressed about its operations, especially by lawyers representing alleged abusers. The Integrated Domestic Violence Court is a promising example of how systems can collaborate to better protect victims and advance the interests of children.*

INTRODUCTION: THE DOMESTIC VIOLENCE CONTEXT

Historically, domestic violence was viewed as a “private matter” and not addressed in the justice system, but it is now accepted that domestic violence is a very important issue for the family, criminal and child welfare courts.⁴ The social,

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⁴ Domestic violence has been referred to in the social science and legal literature as violence against women, intimate partner violence, wife abuse, spousal violence, etc. We use the term domestic violence as it specifically relates to the study at hand—that is, describing and

human and economic costs⁵ of domestic violence are high. The victims of domestic violence are disproportionately women and children,⁶ with lower income, immigrant, visible minority or Aboriginal women and their children facing special challenges.⁷

Over the past three decades, there have been many changes in legislation, justice policy and programs related to domestic violence in Canada, including efforts to clarify the relationship between domestic violence and issues related to

exploring the Integrated Domestic Violence Court in Toronto, Ontario, Canada.

- ⁵ See Department of Justice, Canada, that reports the economic cost of spousal violence in Canada in 2009 was \$7.4 billion, amounting to \$220 per capita alone. The Report can be found at: <<http://canada.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/mlfvc-elcvf/index.html>> (Last accessed July 5, 2014).
- ⁶ M Dragiewicz, “Family Violence or Woman Abuse? Putting Gender Back into the Canadian Research Equation” in Ramona Alaggia & Cathy Vine, eds, *Cruel but not Unusual: Violence in Canadian Families—2nd Edition* (Waterloo, ON: Wilfrid Laurier University Press, 2012); Holly Johnson & Myrna Dawson, *Violence Against Women in Canada: Research and Policy Perspectives* (New York: Oxford University Press, 2011).
- ⁷ Colleen Lundy, “Violence Against Women: A Structural Perspective” in Ramona Alaggia and Cathy Vine, eds, *Cruel But Not Unusual: Violence in Canadian Families—2nd Edition* (Waterloo, ON: Wilfrid Laurier University Press, 2012) 413; see the Canadian Centre for Justice Statistics, *Family Violence in Canada: A Statistical Profile* (Ottawa: Minister of Supply and Services, 2009) at 24; as well as the Canadian Centre for Justice Statistics, *Measuring Violence Against Women: Statistical Trends* (Ottawa: Minister of Industry, 2013) about the population rates of domestic violence in Canada and on women and children specifically.

child development and child custody orders.⁸ For example, in 2006 amendments to Ontario's *Children's Law Reform Act*⁹ codified case law to make clear that acts of violence or abuse committed by one parent against the other parent are often highly relevant factors to consider in making best interest determinations regarding custody or access of a child.¹⁰ It is

⁸ Fidler et al., *Challenging Issues in Child Custody Disputes: A Resource Guide for Legal and Mental Health Professionals* (Toronto: Carswell Thomson Reuters Publishing, 2008); Department of Justice Canada Research and Statistics Division, *Making Appropriate Parenting Arrangements in Family Violence Cases: Applying the Literature to Identify Promising Practices (Family, Children and Youth Section Research Report)*, by Jaffe et al., 2005-FCY-3E, (Ottawa: Department of Justice, 2005).

⁹ *Children's Law Reform Act*, RSO 1990, c C-12, as amended by SO 2006, c 1. Subsections 24(4) and (5) provide:

(4) In assessing a person's ability to act as a parent, the court shall consider whether the person has at any time committed violence or abuse against; (a) his or her spouse; (b) a parent of the child to whom the application relates; (c) a member of the person's household; or, (d) any child.

(5) For the purposes of subsection (4) anything done in self-defence or to protect another person shall not be considered violence or abuse.

¹⁰ Nine provinces and territories have also passed civil domestic/family violence legislation. *Victims of Domestic Violence Act*, SS 1994, c V-6.02; *Victims of Family Violence Act*, RSPEI 1988, c V-3.2; *Family Violence Prevention Act*, RSY 2002, c 84; *Domestic Violence and Stalking Act*, SM 2004, c 13, CCSM 1998 c D93; *Protection Against Family Violence Act*, RSA 2000, c P-27; *Domestic Violence Intervention Act*, SNS 2001, c 29; *Protection Against Family Violence Act*, SNWT 2003, c 24; *Family Violence Protection Act*, SNL 2005, c F-3.1; *Family Abuse Intervention Act*, S Nu 2006, c 18. Note other jurisdictions provide for protection or restraining orders in their family law legislation, for example see *Family Law Act*, SBC 2011, c 25 and *Family Law Act*, RSO 1990, c F.3. Most provincial

also now widely accepted that domestic violence can be a very significant factor in deciding whether to apprehend a child into the care of a child protection agency.¹¹

domestic violence legislation applies to cohabitants, family members or individuals who are living together in a family, spousal or intimate relationship, and to persons who are parents of children, regardless of their marital status or whether they have lived together.

¹¹ Vine et al., “Children Abused, Neglected and Living with Violence” in Ramona Alaggia & Cathy Vine, eds, *Cruel but not Unusual: Violence in Canadian Families—2nd Edition* (Waterloo, ON: Wilfrid Laurier University Press, 2012) 271. See also Trocmé et al., (2010), Canadian Incidence Study (2008), online: Department of Justice, Canada <<http://www.justice.gc.ca/eng/rp-pr/fl-lf/famil/mrcdsmcp/index.html>>, underscoring the link between child neglect and domestic violence. In addition, many Acts include exposure to family violence as a ground for protection. See *Child, Youth and Family Enhancement Act*, RSA 2000, c C-12, s 1(3), which provides that “For the purposes of this Act, (a) a child is emotionally injured... (ii) if there are reasonable and probable grounds to believe that the emotional injury is the result of ... (c) exposure to domestic violence or severe domestic disharmony”; *Family Services Act*, SNB 1980, c F-2.2, s 31(1), provides that “The security or development of a child may be in danger when ... (f) the child is living in a situation where there is domestic violence”; *Child and Family Services Act*, SNWT 1997, c 13, s 7(3), provides that “A child needs protection where ... (j) the child has suffered physical or emotional harm caused by being exposed to repeated domestic violence by or towards a parent of the child and the child’s parent fails or refuses to obtain services, treatment or healing processes to remedy or alleviate the harm”; *Children and Family Services Act*, SNS 1990, c 5, s 22(2), provides that “A child is in need of protective services where ... (i) the child has suffered physical or emotional harm caused by being exposed to repeated domestic violence by or towards a parent or guardian of the child, and the child's parent or guardian fails or refuses to obtain services or treatment to remedy or alleviate the violence”; *Child Protection Act*, RSPEI 1988, c C-5.1, s 9, provides that “A child is in need of protection where ... (m) the child has suffered physical or emotional harm caused by being exposed to domestic violence by or towards a parent”; *Child and Family Services Act*, SS 1989-90, c C-

In many places in Canada, domestic violence prosecutions are now dealt with in special criminal courts¹² and a number of research studies have been done about the efficacy of domestic violence courts in Canada.¹³ While these courts have resulted in significant improvements in support for victims, better access to intervention programs for abusers, and an increased rate of guilty pleas and convictions, there are serious problems with a lack of co-ordination and poor

7.2, s 11, provides that “A child is in need of protection where (a) as a result of action or omission by the child's parent: ... (vi) the child has been exposed to domestic violence or severe domestic disharmony that is likely to result in physical or emotional harm to the child.”; *Youth Protection Act*, RSQ, c P-34.1, s 38, provides that “the security or development of a child is considered to be in danger if the child is abandoned, neglected, subjected to psychological ill-treatment or sexual or physical abuse, or if the child has serious behavioural disturbances.”; *Children and Youth Care and Protection Act*, SNL 2010, c C-12.2s 10(1) provides that “A child is in need of protection where the child... (l) is living in a situation where there is violence or is living in a situation where there is a risk of violence.”

¹² Joseph Hornick, Karolina Kluz, & Lorne Bertrand, *An Evaluation of Yukon's Community Wellness Court* (Calgary: Canadian Research Institute for Law and the Family, 2011), online: <http://www.yukoncourts.ca/pdf/cwc_final_report_05-10-11.pdf>; Tutty et al., “Specialized Domestic Violence Courts: A Comparison of Models” in Ursel, Tutty & LeMaistra, eds, *What's law got to do with it: The Law, Specialized Courts and Domestic Violence in Canada* (Toronto: Cormorant Books, 2008) 69.

¹³ Leslie Tutty, Jennifer Koshan, et al., *Evaluation of the Calgary Specialized Domestic Violence Trial Court & Monitoring the First Appearance Court: Final Report* (2011), online: Resolve Alberta, <<http://www.ucalgary.ca/resolve-static/reports/2011/2011-01.pdf>> and Hornick, Klutz & Bertrand, *supra* note 12. Also see: *Evaluation of the Domestic Violence Court Program: Final Report* (Toronto: Ministry of Attorney General, 2006); and *an Evaluation of the Partner Contact Component of the PAR Program* (Toronto: Ministry of Attorney General, 2002).

information sharing about domestic violence matters. The “separate silos” approach to domestic violence sometimes exposes children and women to continuing risk and results in poor outcomes for children.¹⁴ This approach often results in duplication of efforts, unnecessary expense, and frustration for parents and professionals.¹⁵ In a number of American states, integrated domestic violence courts have been established to improve co-ordination and information sharing, and hopefully establish a more efficient process with better outcomes for victims and children.¹⁶

To address the issues that arise when there are concurrent family and criminal proceedings, a pilot project,

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- ¹⁴ Peter Jaffe, Claire Crooks & Nicholas Bala, “Domestic Violence and Child Custody Disputes: The Need for a New Framework for the Family Court” in Ursel, Tuttle & LeMaistre, eds, *What’s law got to do with it? The Law, Specialized Courts and Domestic Violence in Canada* (Toronto: Cormorant Books, 2008) 254; Peter Jaffe, Claire Crooks & Samantha Poisson, “Common Misconceptions in Addressing Domestic Violence in Custody Disputes” (2003) 54:4 *Juvenile and Family Court Journal* 57; Anat Maytal, “Specialized Domestic Violence Courts: Are They Worth the Trouble in Massachusetts?” (2008) 18 *BU Pub Int LJ* 197; Betsy Tsai, “The Trend Toward Specialized Domestic Violence Courts: Improvements on an Effective Innovation” (2000) 68:4 *Fordham L Rev* 1285.
- ¹⁵ Mandy Burton, “Judicial Monitoring of Compliance: Introducing ‘Problem Solving’ Approaches to Domestic Violence Courts in England and Wales” (2006) 20:3 *Int’l JL Pol’y & Fam* 366; Fritzler & Simon, “Principles of an Effective Domestic Violence Court” (2000) 27 *American Judges Association Court Review* 1; Tsai, *supra* note 14.
- ¹⁶ Nicole Hill & David Kleist, “Evaluation of the Idaho Supreme Court OVW Grant to Encourage Arrest Policies and Enforcement of Protection Orders” (2008) online: <http://www.isc.idaho.gov/dv_courts/6th_7th_Dist_Evaluation.pdf>; Samantha Moore, “Two Decades of Specialized Domestic Violence Courts: A Review of the Literature” (2009) (NY: Center for Court Innovation).

Integrated Domestic Violence Court, has been established in Toronto: the first such court in Canada. This paper describes and analyzes the issues related to the establishment of this court project, and discusses a mixed methodology research project that is currently being undertaken to evaluate it. We also provide some preliminary results from that research, including a summary of qualitative interviews¹⁷ with the key professional stakeholders involved with this court (judges, Crown, criminal and family lawyers, court support workers) and two victims and two offenders involved with this court to date.

While there may be intuitive appeal to integrating criminal and civil processes, concerns have been expressed that the integrated courts may leave victims more vulnerable and erode the rights of alleged abusers.¹⁸ These competing views about the value of integrated courts make it especially important to empirically study the projects that are being established.

¹⁷ A qualitative methodology captures the breadth and depth of the views and experiences of those involved in the integrated domestic violence court. A qualitative approach generates a representation of themes from the participants and allows the reader to draw their own conclusions. Qualitative research is not about generalising results; rather, it draws out the complexities and tensions that are inherent in the real world – in this case, concurrent family and criminal matters being dealt with by one judge. See Charmaz, *Constructing Grounded Theory* (Los Angeles: Sage, 2006); Corbin & Strauss, *Basics of Qualitative Research: Techniques and Procedures for Developing Grounded Theory* (Los Angeles: Sage, 2008); Cresswell, *Qualitative Inquiry and Research Design: Choosing Among Five Traditions* (Thousand Oaks, CA: Sage, 2007).

¹⁸ Elizabeth L. MacDowell, “When Courts Collide: Integrated Domestic Violence Courts and Court Pluralism” (2011) 20:2 *Tex J Women & L* 95.

Frequency of Domestic Violence in Family Cases

A significant portion of high conflict family court cases¹⁹ raise issues of domestic violence. In some of these cases, it is clear that there has been domestic violence; in other cases there is a significant dispute about whether domestic violence occurred, or about its nature, extent and effects. In some cases, a claim of domestic violence or abuse is met by the response that there has been alienation, further heightening the conflict and complexity of the proceedings.

In the United States, Johnston and Roseby²⁰ reviewed a number of studies on high conflict families involved in custody litigation and found that 72% to 80% of these cases involved allegations of domestic violence. Bow and Boxer²¹ reported that 37% of child custody assessments in their study of high conflict litigated cases involved domestic abuse allegations. A study of Australian court files found that allegations of spousal

¹⁹ The term "high conflict" separation was first coined by Janet Johnston in the early 1990s to describe disputing separating parents involved in the court process who have been not able to resolve their post separation disputes due to high levels of acrimony, personality disorders of one or both spouses, poor communication and lack of cooperation, where a child refuses to visit with the other parent, as well as domestic violence perpetrated primarily by one abusive spouse and continuing post separation (see Janet Johnston & Vivienne Roseby, "Children of Armageddon: Common Developmental Threats in High Conflict Divorcing Families" (1998) 7:2 Child Adoles Psychiatr Clin N Amer 295 (describes the impact of high conflict divorcing families on children).

²⁰ *Supra* note 19.

²¹ JN Bow & P Boxer, "Assessing Allegations of Domestic Violence in Child Custody Evaluations" (2003) 18:12 Journal of Interpersonal Violence 1394.

violence and/or child abuse were present in over half of the cases reviewed.²²

Birnbaum²³ reviewed 500 intake files at the Office of the Children's Lawyer in Ontario (a publicly funded office that represents children's legal interests in custody and access disputes) to ascertain the incidence of reports of family violence. Each file included a statement from each parent about whether child abuse or spousal violence had occurred. She found that mothers reported that their children were exposed to spousal violence in 52% of the cases, while fathers reported their child's exposure to family violence in only 31% of the cases. Violence against children was reported by mothers in 45% of the cases; however, fathers reported it as a factor in only 21% of the cases. These results suggest that there may be significant gender differences in the perception of family violence as a factor in cases, with mothers significantly more likely to perceive and report it as a concern.

Establishing Domestic Violence Courts

Domestic violence courts have been established in the United States, England, Australia, New Zealand and Canada to better address the social, emotional, legal and economic costs of family violence in the criminal justice system.²⁴ The goal of

²² Austl, Commonwealth, Government of Australia Institute of Family Studies, *Allegations of Family Violence and Child Abuse in Family Law Children's Proceedings: A Pre-Reform Exploratory Study* (report No 15) by Lawrie Moloney et al, 2007.

²³ *Supra* note 6.

²⁴ Burton, *supra* note 15; Dee Cook et al., *Evaluation of Domestic Violence Pilot Sites at Gwent and Croydon, UK* (London, UK: Crown Prosecution Service, 2004); Melissa Labriola et al., *A National Portrait of Domestic Violence Courts* (New York: Centre for Court Innovation, 2009); Nathalie Quann, *Offender Profile and Recidivism Among Domestic Violence Offenders in Ontario, Canada* (Ottawa:

these courts includes improving safety for victims, decreasing delay, more effectively holding offenders accountable, and increasing the likelihood that abusive spouses will undertake court-directed treatment.²⁵ These courts were established to allow prosecutors, police, providers of programs for abusers and providers of service to victims to better co-ordinate their services. These courts also allow for judges and other professionals to gain familiarity with issues of domestic violence, and monitor the progress of offenders.²⁶

There has been growing understanding among both the legal and mental health professionals about the link between domestic violence (i.e., any form of sexual, physical, verbal, financial, or emotional abuse, child abuse and neglect, spousal abuse/ or violence by an intimate partner, as well, child abuse and neglect) and high conflict post-separation disputes.²⁷ The

Department of Justice, Research and Statistics Division, 2007); Leslie Tutty et al., *Evaluation of the Calgary Specialized Domestic Violence Trial Court & Monitoring the First Appearance Court: Final Report* (Calgary: prepared for the National Crime Prevention Center of Public Safety Canada and the Alberta Law Foundation, 2011); Tsai, *supra* note 14.

²⁵ Moore, *supra* note 16; Katreena L Scott & Vicky Lishak, "Intervention for Maltreating Fathers: Statistically and Clinically Significant Change (2012) 36 Child Abuse and Neglect 680.

²⁶ Moore, *supra* note 16.

²⁷ Rachel Birnbaum, "Rendering Children Invisible: The Forces at Play During Separation and Divorce in the Context of Family Violence" in Ramona Alaggia & Cathy Vine, eds, *Cruel but not Unusual: Violence in Canadian Families – 2nd Edition* (Waterloo: Wilfrid Laurier University Press, 2012) 371; Fidler et al., *supra* note 8; Jennifer L. Hardesty et al., "Domestic Violence and Child Custody" in K Kuehnle & L Drozd, eds, *Parenting Plan Evaluation: Applied Research for the Family Court* (New York: Oxford University Press, 2012) 442; Jaffe, Crooks & Bala, *supra* note 14; Joan B. Kelly, "Risk and Protective Factors Associated with Child and Adolescent

criminal domestic violence courts have provided a valuable response to domestic abuse, increasing the accountability of abusers and enhancing protection for victims.²⁸ However, there continue to be significant challenges for the victims and the offenders, as well as their children, especially during the separation process.²⁹

In most places, the domestic violence court and criminal justice system operate independently of the family justice process, with no sharing of information or co-ordination between criminal and family court cases involving the same parents and children.³⁰ This often results in duplication and

Adjustment Following Separation and Divorce: Social Science Applications” in K Kuehnle & L Drozd, eds, *Parenting Plan Evaluation: Applied Research for the Family Court* (New York: Oxford University Press, 2012) 49.

²⁸ Amy Karan, Susan Keilitz & Sharon Denaro, “Domestic Violence Courts: What Are They and How Should We Manage Them?” (1999) 50:2 *Juvenile and Family Court Journal* 75; Lisa Newmark et al., *Specialized Felony Domestic Violence Courts: Lessons on Implementation and Impacts for the Kings County Experience* (Washington, DC: Urban Institute, Justice Policy Center, 2001); Ontario Ministry of Attorney General, *supra* note 13.

²⁹ Hardesty et al., *supra* note 27; Peter Jaffe, Linda Baker & Alison Cunningham, eds, *Protecting Children from Domestic Violence: Strategies for Community Intervention* (New York: The Guilford Press, 2004); Jaffe, Crooks & Poisson, *supra* note 14; Peter Jaffe, Nancy KD Lemon & Samantha Poisson, *Child Custody & Domestic Violence* (Thousand Oaks, CA: Sage, 2003); AM Zeoli et al., “Post-Separation Abuse of Women and Their Children: Boundary-Setting and Family Court Utilization among Victimized Mothers (2013) 28:6 *J Fam Violence* 547.

³⁰ Pamela M Casey & David B Rottman, “Problem-Solving Courts: Models and Trends” (2005) 26:1 *The Justice System Journal* 35; Andrea C Farney & Roberta L Valente, “Creating Justice Through Balance: Integrating Domestic Violence Law into Family Court

expense for the parents and government. Too often orders made in the criminal process seem premised on the complete termination of the relationship between an offender and the victim, and ignore any interests of children in any form of continuation of their relationship to the offender.³¹ Orders concerning terms of bail release may prohibit contact between an alleged abuser and victim, while family court orders are premised on a continuing relationship and visits between the abuser and children, which inevitably requires at least indirect contact between the parents. As a matter of law, an order under the *Criminal Code* restricting the conduct of an accused takes precedence, but the parties may not appreciate this, and further this may not take account of the interests of the children and parents, especially if there are the changing circumstances. Lack of co-ordination too often results in confusion and frustration for parents, with inconsistent orders and approaches. In some cases, the confusion may result in further victimization of those who have suffered abuse and exposure to risk of further violence.³²

The Value of an Integrated Domestic Violence Court

Many professionals and policy makers have suggested that a more integrated and multi-pronged approach to domestic violence cases is a more effective and appropriate strategy, with both the criminal and family matters resolved by “one judge for one family,” and the necessary support services

Practice” (2004) 54:4 *Juvenile and Family Court Journal* 35; Maytal, *supra* note 14.

³¹ Nicholas Bala & Kate Kehoe, *Concurrent Legal Proceedings in Cases of Family Violence: The Child Protection Perspective* (Ottawa: Department of Justice Canada, 2013).

³² Jaffe, Crooks & Bala, *supra* note 14.

available to the court, the parties and their children.³³ Tolman & Weisz,³⁴ Harrell³⁵ and Newmark et al.³⁶ have argued that increased collaboration between community agencies and the courts can enhance victim participation and better hold offenders accountable, which may lead to reductions in domestic violence recidivism.

There are strong arguments to support a “one judge one family” approach to case management for high conflict family cases, and this approach is increasingly being adopted in

³³ Fritzier & Simon, *supra* note 15; Angela Gover et al., *Lexington County Domestic Violence Court: A Partnership and Evaluation* (US: National Institute of Justice, US Department of Justice, 2003); Meredith Hoffard, “Family Violence: Challenging Cases for Probation Officers” (1991) 55:3 *Federal Probation* 12; Karan, Keilitz & Denaro, *supra* note 28; Newmark et al., *supra* note 28; Dag Maclead & Julia F Weber, *Domestic Violence Courts: A Descriptive Study* (Sacramento: Judicial Council of California, 2000); Tsai, *supra* note 14. The first integrated domestic violence court was established in Dade County, Miami, USA in 1992, and a number have been operating throughout the USA; although the IDVC courts vary by jurisdiction as to what family and criminal court charges are before the court. See <http://www.nycourts.gov/courts/problem_solving/idv/home.shtml> for the framework of the IDVC in New York, New York.

³⁴ Richard M Tolman & Arlene Weisz, “Coordinated Community Intervention for Domestic Violence: The Effects of Arrest and Prosecution on Recidivism of Woman Abuse Perpetrators” (1995) 41:4 *Crime and Delinquency* 481.

³⁵ Adele V Harrell, *Evaluation of Court-Ordered Treatment for Domestic Violence Offenders: Final Report* (Washington, DC: The Urban Institute, 1991).

³⁶ *Supra* note 28.

Canada.³⁷ A related but distinct development has been the establishment of “problem-solving” criminal courts that deal with a type of case that raises a particular social problem, like drug use, mental health or domestic violence; these courts are less adversarial, with the judge adopting a more activist role in managing cases and attempting to modify behaviour (sometimes called a “therapeutic justice” approach).³⁸

It has been argued that having one judge deal with both family and criminal proceedings in one court allows for: (a) a more holistic and multi-disciplinary approach to family problems; (b) more effective judicial monitoring to increase accountability for the offenders and compliance with court orders; (c) improved judicial decision-making as a result of the judge having more information about the family; and (d) better access to and coordination of support services (i.e., legal and social services) for the victims and children.³⁹

The balance of this paper is organized as follows. We first examine the limited number of outcome evaluations of

³⁷ Nicholas Bala, Rachel Birnbaum & Donna Martinson, “One Judge for One Family: Differentiated Case Management for Families in Continuing Conflict (2010) 26:2 Can J Fam L 395.

³⁸ Randal B Fritzler & Leopore MJ Simon, “Creating a Domestic Violence Court: Combat in the Trenches” (2000) 37 Court Review 28; Goldberg, *Judging for the 21st Century: A Problem-Solving Approach* (Ottawa: National Judicial Institute, 2005); M King & B Bagatol, “Enforcer, Manager or Leader? The Judicial Role in Family Violence Courts” (2010) 33 Int’l JL & Psychiatry 406; Jane Spinak, “A Conversation About Problem-Solving Courts: Take 2” (2010) 10 University of Maryland Law Journal of Race, Religion, Gender & Class 113; David B Wexler & Bruce J Winick, *Law in a Therapeutic Key* (Durham: Carolina Academic Press, 1996); Bruce J Winick, “Therapeutic Jurisprudence and Problem-Solving Courts” (2004) 30:3 Fordham Urb LJ 1055.

³⁹ Fritzler & Simon, *supra* note 15; Moore, *supra* note 16

these specialized integrated courts in the United States and England. We highlight the strengths and challenges of evaluating integrated domestic violence courts from both an operational and research perspective. We also discuss the challenges in undertaking evaluations of these projects, and how those studies informed our evaluation project of Ontario's Integrated Domestic Violence Court (IDVC). The next section describes the process for the establishment of the Integrated Domestic Violence Court in Toronto, the first such court in Canada. Then we summarize baseline demographic data (family and criminal court variables) used for matching baseline ($n=160$) and IDVC families.⁴⁰

Finally, we report on the qualitative findings in our research study about the views and experiences of the professional stakeholders (e.g., Crown, criminal and family lawyers, community and court resource professionals, and judges), as well as two victims and two offenders involved with this court. We conclude with practice, research and policy suggestions for furthering the establishment of integrated domestic violence courts in other jurisdictions in Canada.

This is the first study that explores the process for establishment of an integrated domestic violence court in Canada, and provides the views and experiences of the key stakeholders involved.

⁴⁰ We will use propensity scores to match the baseline group data with the IDVC data. This will reduce the bias from differences in matching demographics (e.g., age, income, number of children, children's ages, custody and access arrangements, criminal convictions (prior and present), bail, breaches of bail, etc.) between the baseline data and the IDVC data. See Katz & Rempel, 2001 (infra note 51) who have also used this methodology to control for outcome differences. The quantitative data collection in the IDVC is ongoing. The authors will report on these findings in future papers.

EVALUATION STUDIES OF INTEGRATED DOMESTIC VIOLENCE COURTS

Progress has been slow in obtaining clear empirical support for the value and effectiveness of integrated domestic violence courts.⁴¹ Conducting research about the effectiveness of these courts is difficult for several reasons: (1) the justice system databases (family and criminal) operate separately, which makes it very difficult to match data; (2) each integrated court has a unique mandate and the courts have different intake criteria for eligibility, making comparisons difficult; and (3) different studies have used different measures to assess effectiveness (i.e., case processing times, litigant's time at court, recidivism rates, post reconvictions, types of access, etc.), which creates further challenges in comparing outcomes.

Evaluation studies have generally been based on the subjective impressions of professionals about the integrated courts through qualitative surveys alone.⁴² Not all of the published outcome evaluation studies have used matched control groups,⁴³ and many lack a theoretical framework

⁴¹ Greg Berman & Anna Gulick, "Just the (unwieldy, hard to gather but nonetheless essential) facts, ma'am: What We Know and Don't Know About Problem Solving in Courts" (2003) 30:3 *Fordham Urb LJ* 1027; Sarah Picard-Fritsche, Amanda Cissner & Nora K Puffett, *The Erie County Integrated Domestic Violence Court: Policies, Practices, and Impacts* (New York: Centre for Court Innovation, 2011).

⁴² Casey & Rottman, *supra* note 30.

⁴³ Sanford L Braver, Melanie C Smith & Stephanie R Delusé, "Methodological Considerations in Evaluation Family Court Programs" (1997) 35:1 *Family & Conciliation Courts Review* 9; Casey & Rottman, *supra* note 30; JS Goldkamp et al., *The Role of Drug and Alcohol Abuse in Domestic Violence and its Treatment: Court Experiment: Final Report* (Washington, DC: National Institute of Justice, United States Department of Justice, 1996); Hill & Kliet,

linking the criminal and family processes with the broader structural and systemic barriers in understanding domestic violence post separation.

Our study is guided by an ecological framework that draws on the work of Heise,⁴⁴ Belsky,⁴⁵ Bronfenbrenner⁴⁶ and Germain & Gitterman⁴⁷ to understand how domestic violence and different systems (e.g. individual, family, community and broader social structures) impede, enhance and interact with one another to assist families and children. To this end, we designed a mixed method approach to gather data from multiple sources (e.g. family and criminal court databases, file reviews, and interviews with professional stakeholders, victims, offenders, and children). Ecological theory seeks to

supra note 16; Eleanor Lyon, *Special Session Domestic Violence Courts: Enhanced Advocacy and Interventions* (Storrs: University of Connecticut School of Social Work, 2002); Marianne Hester, Julia Pearce & Nicole Westmarland, *Early Evaluation of the Integrated Domestic Violence Court, Croydon* (Ministry of Justice Research Series 18/08, 2008); Lynn S Levey, Martha Wade Steketee & Susan L Kelitz, *Lessons Learned Implementing an Integrated Domestic Violence Court: The District of Columbia Experience* (Washington, DC: National Centre for State Courts, 2000).

⁴⁴ Lori L Heise, "Violence Against Women: An Integrated, Ecological Framework" (1998) 4 *Violence Against Women* 262.

⁴⁵ Jay Belsky, "Child Maltreatment: An Ecological Integration" (1980) 35:4 *American Psychologist* 320.

⁴⁶ Urie Bronfenbrenner, *The Ecology of Human Development* (Cambridge, MA: Harvard University Press, 1979); Urie Bronfenbrenner, "Ecology of the Family as a Context for Human-Development: Research Perspectives" (1986) 22 *Developmental Psychology* 723.

⁴⁷ Carel B Germain & Alex Gitterman, *The Life Model of Social Work Practice: Advances in Theory and Practice* 2d ed (New York: Columbia University Press, 1996).

understand human experience and behavior within 'a person-in-environment' framework.⁴⁸

A number of studies have been undertaken on Integrated Domestic Violence Courts in the USA and England; these studies will allow some comparative analysis once our research is completed.

Rickard⁴⁹ reviewed 421 active divorce cases where civil protective orders were requested between the years 2003-2009 in five boroughs in New York City, comparing cases in an IDVC with those in a two-court system. This study found that it took one month longer to obtain a protective order in the IDVC than in the matrimonial civil court, and reported that protective orders were granted in a similar proportion of cases in each process, despite the greater seriousness of the cases in the IDVC. Rickard concluded that before more integrated domestic violence courts are established, there needs to be more assessment of their impact, particularly on victims of violence.

Picard-Fritsche et al.⁵⁰ examined both process and court outcomes in the Erie County, New York IDVC, compared with a sample of families that met the IDVC criteria and used the traditional two-court processes in the same jurisdiction during an earlier period. They found that in comparison to the traditional two-court process, IDVC litigants averaged fewer trips to court as they often had same-day scheduling for both processes; had fewer court appearances;

⁴⁸ Bronfenbrenner, *supra* note 46; Germain & Gitterman, *supra* note 47.

⁴⁹ Erika J Rickard, "Civil Protective Orders in Integrated Domestic Violence Court: An Empirical Study" (2011) online: Social Science Research Net
<http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1782212>.

⁵⁰ *Supra* note 41.

were less likely than the comparison group to have subsequent court filings; had more adjournments in contemplation of dismissal or guilty pleas. While defendants in the IDV court were significantly more likely than defendants in the comparison group to have another later criminal charge that involved a violation of a protective order, the researchers admitted difficulty in interpreting this result; it may not have reflected higher reoffending, but rather may have been to more protective orders being given and better monitoring of IDV court cases. These researchers concluded that many of the anticipated benefits of the IDV court were realized, making victims safer and holding the defendant more accountable. They noted the need for further research on the use of protective orders, benefits of counseling programs, and whether the victims or the accused had legal representation.

Katz and Rempel⁵¹ compared outcomes between family and criminal court cases in an IDVC with those in a traditional family court and a traditional criminal court in different jurisdictions in New York State. They examined the following outcomes: (a) case processing; (b) dispositions; (c) subsequent court filings; and (d) re-arrests. They found that over a one-year period after a case was completed, less than 10% of the parties were involved in a subsequent family court filing, with no differences between those who had an IDVC or comparison court case. IDVC criminal cases were significantly more likely to be settled or withdrawn than comparison cases in criminal court (referred to as concurrent charge) and case-processing time took longer for IDVC than in the comparison group. They also found that the IDVC cases involved significantly more court appearances than comparison cases. These researchers concluded that further study is needed into other hypothesized benefits of the IDVC for utilization of other

⁵¹ Shani Katz & Michael Rempel, *The Impact of Integrated Domestic Violence Courts on Case Outcomes: Results of Nine New York State Courts* (New York: Center for Court Innovation, 2011).

mental health services and programs, as well as victim satisfaction with the justice system.

Schluetter, Wicklund, Adler, Owen, and Halvorsen⁵² evaluated the Bennington County IDV Docket Project (IDVD) in Vermont, focusing on recidivism rates and post-program criminal behavior outcomes ($n=140$) compared to a District Court or defendants in a statewide domestic assault cohort ($n=102$). They found that the participants in the IDVD project were less likely to be reconvicted for domestic violence, for a violent offense or for another crime, compared to defendants in the District Court or a statewide domestic assault court. They also found that the reconviction rate for the IDVD defendants was either comparable to or lower than that of the comparison group. Defendants from both study groups engaged in further criminal activity not related to domestic violence to a significant extent, suggesting a need for high level community services that go beyond the problem of domestic violence. Finally, the researchers reported that the IDVD project processed domestic violence cases twice as quickly as the other courts.

Coll and Stewart⁵³ evaluated the Ada County Family Violence Court (FVC) in Idaho. The court was designed to manage domestic violence cases that were part of family disputes to provide better collaboration and coordination of services for children and families before the court. A Domestic Violence Coordinator provided co-ordinated services,

⁵² Max Schlueter et al., *Bennington County Integrated Domestic Violence Project: Outcome Evaluation* (Northfield Falls, VT: The Vermont Centre for Justice Research, 2011).

⁵³ Kenneth M Coll & Roger A Stewart, *Ada County Family Violence Court Comprehensive Evaluation Report* (2007) online: Rocky Mountain Quality Improvement Center, <http://www.isc.idaho.gov/dv_courts/FVC_Comprehensive_Eval_Report.pdf>.

reflecting the perceived importance of having one person manage and collaborate between the courts and the community agencies. These researchers used questionnaires with litigants about parenting styles, risk assessment, and levels of conflict at both exit interviews and follow-up, as well as in-person surveys with litigants and stakeholders. Two comparison groups were used: litigants who matched the FVC (i.e., concurrent drug/alcohol problems, child welfare issues), and those that had domestic violence as an additional concern in the family litigation. Of the 115 families, 58 were eligible for participation. The following outcomes were reported for those in FVC: (a) parents perceived a marked reduction of conflict over child-related matters; (b) only four families had a substantiated report of further child maltreatment; (c) marked improvement in parenting co-operation; (d) improved family functioning (i.e., fewer family misunderstandings, more flexibility) and improved child well-being (i.e., school performance, cooperation) and conflict resolution; (e) only 2 families reported ongoing instances of children witnessing domestic violence or ongoing domestic violence concerns; (f) risk factors for spousal abuse dropped significantly; (g) parents reported marked reduction in drug and alcohol abuse when compared to a similar group not enrolled in the FVC; and (h) reduced involvement with the criminal courts when compared to a similar group not in the FVC. These researchers concluded that significant systemic changes were made with the use of the FVC and that continuing efforts need to be made to implement a “one judge one family one court” model, though further research is needed about ongoing community partnerships and referrals to FVC.

Hester, Pearce and Westmarland⁵⁴ conducted a process evaluation study of an English project, as there were only five cases in the IDVC at the time of the evaluation. In their process evaluation, they found a lack of coordination among the

⁵⁴ *Supra* note 43.

services (i.e., mental health workers, probation) and that many of the lawyers retained were not able to handle both the criminal and family law matters.

Mennerich, Rempel, Farole, Kralstein, and Roman⁵⁵ examined the cost-effectiveness of restructuring of a trial court in the Bronx and Erie IDVCs in New York State based on an assessment of three outcomes: (a) court appearances; (b) litigants' trips to court through same-day scheduling; and (c) future criminal arrests and additional family court filings. They found a lower number of criminal court appearances per case for IDVC cases in comparison families in the Erie court, but no differences in the Bronx court. However, the number of court appearances per case in family court was higher in the IDVC in both sites and the IDV court families had significantly more appearances on family matters than the comparison group (family and criminal). In addition, compared to the control group, the IDVC did not demonstrate reductions in criminal recidivism and only a slight reduction in supplemental family court filings.

Hill & Kleist conducted a mixed method study in the Idaho Supreme Court, USA, to evaluate better coordination of responses to an integrated domestic violence court.⁵⁶ While this study did not have a comparison group, the findings of this research about the importance of having a Domestic Violence Coordinator is noteworthy. The primary objective of this study was to evaluate the Domestic Violence Coordinator on indicators of change and impact on victims, offenders and the stakeholders involved in the integrated domestic violence court. Of the nine victim participants who were interviewed

⁵⁵ Amy Mennerich et al., *The Potential Cost-Effectiveness of Trial Court Restructuring in New York State* (John Roman: Urban Institute, 2005).

⁵⁶ *Supra*, note 16.

individually, all but one was a female; a focus group of professionals was also held with eight participants (e.g., judges, probation officers, court administrators). The majority of professional stakeholders viewed the Domestic Violence Coordinator as essential to facilitating follow up with the victim and offender, positively impacting the timeliness and referral process to the integrated court, and streamlining the process for creating parenting plans that did not compromise victim safety with a corresponding no-contact order made by the judge.

The victims also spoke positively about the Domestic Violence Coordinator facilitating “connection”— that is, helping them make sense of the sequence of the court process from beginning to end. In addition, exit surveys were completed by 45 victim participants; these surveys suggested an overall high level of satisfaction with the role of the Domestic Violence Coordinator in terms of access to information and resources, the degree of respect and trust experienced with the Co-ordinator, consistency of the court system, and perceived usefulness of court services.

Twenty service providers also completed surveys about the impact and role of the Domestic Violence Coordinator. They, too, rated the role of the Coordinator as effective in assisting the victims through the court process and emphasized the importance of having one judge handle the family and criminal matters. These researchers acknowledge the limitations of the small sample sizes in their study and recommend further research. However, they believed that the role and function of the Domestic Violence Coordinator benefitted the smooth functioning of the integrated court.

Summary of Evaluation Studies

There appears to be empirical support from these American and English studies for the value of IDVCs; however, the studies use different outcome measures and clearly more research is

required, particularly about the effects on children and victims of domestic violence. Surprisingly, only one study explored child outcomes; the majority of the evaluations remained focused on criminal court outcomes (i.e. recidivism rates, length of time to disposition, litigant's time in court, etc.) and only one study evaluated the impact of the Domestic Violence Coordinator for the integrated court. We believe that it is equally important to understand child and parent outcomes, as well as how family court orders and support services (i.e., victim witness services, child welfare services, legal representation for children, supervised access services, etc.) are being used to meet the stated objectives of the IDVC or not.

The studies did identify important themes for planning and research purposes: (a) the need for strong collaboration and communication between administrative staff, the courts, and community agencies; (b) the need for a comprehensive database information sharing process that is accessible for research purposes (i.e., family and criminal court information); (c) the need for identifiable and measureable outcomes; and (d) the need for a dedicated coordinator to liaise between the criminal and family court and community supports.

Establishing the Toronto IDVC

The planning process for the establishment of the Integrated Domestic Violence Court in Toronto and community outreach began in 2010. The Toronto IDVC officially opened in June 2011.⁵⁷

⁵⁷ Several judges and lawyers from the Office of the Chief Justice of the Ontario Court of Justice met with the domestic violence community of professionals, the family law bar, and the criminal defense bar to explain the IDVC and respond to any concerns and criticisms. Initially, stakeholders viewed the IDVC with caution, as it was a different approach to dealing with domestic violence concerns in family disputes and raised concerns about procedural justice,

The IDVC is a part of the Ontario Court of Justice, a court that has jurisdiction over summary conviction criminal proceedings and certain types of family cases, those that do not involve property claims or the granting of divorce. As a result of its limited jurisdiction, most of those who appear in family cases in this court have limited financial resources, and a disproportionate number are in non-marital relationships of relatively brief duration, as opposed to legally married or in longer-term relationships. In Ontario, there is another trial court, the Superior Court, which deals with indictable criminal offences, and family cases involving property or divorce; those with longer-term relationships and higher incomes tend to have their family proceedings in the Superior Court.

The goals of the IDVC are similar to those found in the literature for other similar courts.⁵⁸ The objectives articulated by of the Ontario Court of Justice are:⁵⁹

especially in the criminal context, and the impact on the victim (i.e., women).

The Toronto IDVC is an initiative from the judiciary, and in particular the Office of the Chief Justice. It is, however, notable that the Office of the Chief Justice spent considerable time on community consultation and established a number of advisory committees where concerns could be expressed and implementation plans modified. In addition, a site visit was arranged for the domestic violence community partners to attend the Buffalo, New York IDVC to see the IDVC in action and to meet with the judge and administrative staff in order to learn about the IDVC process. The first author also attended the Buffalo IDVC court site visit.

⁵⁸ Fritzler & Simon, *supra* note 15; Moore, *supra* note 16;

⁵⁹ Geraldine Waldman, “Criminal Charges in Family Cases”, online: <<http://www.mysupportcalculator.ca/blog/tag/justice-geraldine-waldman/>>.

1. Allow better informed judicial decision-making: The judge should have more comprehensive and current information concerning issues involving the family. This should allow the judge to more fully understand the family, its ongoing needs and the progress each member is making. The judge, for example, should be able to more fully evaluate safety concerns, compliance with orders, and progress in parenting concerns relating to access.
2. Eliminate conflicting or inconsistent orders: Conflicting court orders create confusion, which can impact on compliance and enforcement. The existence of conflicting orders also undermines litigants' confidence in the justice system and can create safety concerns. Elimination of conflicting orders should make the expectations of the court system clear to all participants, and consequently supports compliance.
3. Provide consistent handling of multiple matters relating to a single family by a judge who is knowledgeable in the area of domestic violence. Single judge case management has been shown to be an effective approach to resolving family disputes. The judge develops an understanding of the case and the litigants, and can support them in moving through the litigation with appropriate orders and expectations. Judges with expertise in both family and criminal law and in the issues relating to domestic violence should be able to better understand the needs of the litigants and to direct the litigation in a manner that is appropriate for the concerns of the community and the issues facing the litigants.
4. Provide a better connection to social services and other community resources. Having a community resource coordinator allows the court to develop and maintain a

connection to community resources and to connect the families to resources that are appropriate to their needs. This should allow for a more comprehensive and expeditious response to the issues facing various family members, and facilitate monitoring of progress, which supports the court in appropriate decision-making and should expedite resolution.

5. Reduce costs for both the justice system and the parties by reducing the number of appearances in court and trips to court. Those involved will only have to attend one court location. The coordination of appearances should reduce the number of attendances. Consolidation of resources and monitoring should also add to efficiencies that will benefit both the family and the justice system.
6. Develop expertise within the court, and support the establishment of services and resources designed specifically for the unique needs of the client base: because this court is focused, staff and agencies represented can develop specific expertise.

Based on the experiences of IDVCs in the United States,⁶⁰ particularly the Buffalo, New York IDVC, an initial consultation group was established in Toronto, with members of the Ontario Court of Justice judiciary, provincial

⁶⁰ Amanda B Cissner & Donald J Farole, *Best Practices Avoiding Failures of Implementation: Lessons from Process Evaluations* (New York: Center for Court Innovation, 2009); Fritzler & Simon, *supra* note 15; Hill & Kleist, *supra* note 16; Karan, Keilitz & Denaro, *supra* note 28; Robyn Mazur & Liberty Aldrich, "What Makes a Domestic Violence Court Work? Lessons from New York" (2003) 42:2 *Judges Journal* 5; Uekart, Keith & Rubin, *Integrating Criminal and Civil Matters in Family Courts: Performance Areas and Recommendations* (Williamsburg, VA: State Justice Institute, 2002).

government policy staff in family, domestic violence and criminal agencies, and the broader domestic violence community (i.e., legal and social services). This project was strongly supported by the Office of the Chief Judge of the Ontario Court of Justice.

As consultation progressed, two separate broadly-based committees were formed to advise on the establishment of the IDVC: the Toronto IDVC Community Advisory Committee and the Planning Committee Working Group. Both planning groups had representation from the judiciary and provincial government (both family and criminal agencies), as well as community advocacy groups and community agencies working with victims of domestic violence and abusers. In addition, an IDVC Operations Group was established at the courthouse to facilitate information sharing, communication and court operations.

As planning progressed, it was recognized that an evaluation component was essential, to allow assessment of whether the objectives of the court were being met, and a Research Advisory Committee was established to assist with the development of research questions and to facilitate communication with the stakeholders about the ongoing evaluation progress. The first author of this paper (Birnbaum) organized that Committee and is Principal Investigator for the on-going study. It was recognized that it would be important to engage professional stakeholders, victims and offenders, as well as their children (seven years of age and older) in the research.⁶¹

⁶¹ The lead co-author of this paper, Birnbaum, was an observer at all the Committees. Only voluntary participants who have both a closed criminal and family court file could be interviewed for the qualitative evaluation, as required by the Research Ethics Committee of King's University College, Western, London, Ontario.

Initially involvement in the Toronto IDVC was voluntary; all the parties had to provide consent, including the Crown consenting to transfer the criminal case to the IDVC. Further, the IDVC could only deal with criminal proceedings where the Crown was proceeding by summary process⁶² and did not expect to have a criminal trial. It soon became evident that referral criteria which required each party to provide consent were cumbersome and confusing, and created barriers to accessing the court. As a result, the Office of the Chief Justice of the Ontario Court of Justice directed that all cases involving a domestic violence prosecution and corresponding family case in this level of court in a specified area of Toronto were to “automatically” be referred to the IDVC, eliminating the need for consent of both parties.⁶³

The court sits at one location in downtown Toronto (311 Jarvis St.). The court usually sits one day every two weeks, presided over by one of two judges, each with significant experience in dealing with criminal and family

⁶² In Canada, offences are either summary or indictable. Summary offences have a lesser maximum penalty than indictable proceedings, with a maximum of 18 months imprisonment for many summary offences. There is no jury trial in for a summary offence. Some offences are hybrid, meaning that the Crown has an election to proceed summarily or by indictment depending on the sentence that it is seeking. Depending on the sentence being sought by the Crown, summary proceedings can include assault, sexual assault, unlawfully causing bodily harm, assault with a weapon, disobey criminal court order, and mischief property damage) under \$5000.

⁶³ The Practice Direction took effect in March 2012. On April 26, 2013, a second Practice Direction was issued that provided for all domestic violence cases that are proceeding by way of summary convictions in both Old City Hall and College Park in Toronto would automatically be heard in the IDVC. The gathering of the baseline data for the evaluation component helped identify which criminal courts had the most domestic violence and family disputes that could be referred to the IDVC.

cases that raise domestic violence issues, a dedicated Crown Attorney, both a criminal and family legal aid duty counsel, a community resource coordinator (CRC)⁶⁴, a victim witness services court worker (VWAP) and a family support worker (FSW) to provide support and community referrals for victims of violence. There is also a staff person from the Family Law Information Centre available for consultation.

The Toronto IDVC is based on a “one family one judge” approach, where a single judge deals with both the criminal and family proceedings in cases where there is an issue of domestic violence post separation. At each hearing date, all of the criminal proceedings are addressed, followed a brief adjournment and all of the family matters. This allows professionals involved in only the criminal process to leave the courthouse, though some will stay to observe and learn from the family process. However, sometimes when there is an adjudication and lengthier hearing for one case, the criminal and family proceedings for one case are dealt with one after the other.

Many of the court appearances are relatively brief and dealt with in open court, addressing issues such as variations of bail conditions, scheduling, interim orders, pleas, disclosure of information or sentencing. Sometimes part of the proceedings may involve an “off the record” meeting (or “case conference”) in the judge’s chambers or a conference room with lawyers and perhaps the parties in a family case. The court will schedule

⁶⁴ This position was initially funded by the Department of Justice, Canada with the goal of assisting the IDV court in cross-referencing of criminal and family databases as well as assisting the court as needed. It should be noted that while the IDVC had a community resource coordinator (CRC) for the first three years of the court’s operation, due to funding limitations, the court no longer has this position and must rely on administrative support. See Hill & Kleist (*supra* note 16) study about the importance of this role to the IDVC.

longer hearings, such as criminal trials or contested family motions, at a separate time.

By September 2014 there were 41 cases in the IDVC (of which 4 cases started but went back to criminal/family courts separately; 34 criminal cases were completed and 19 family cases were completed). Many of the criminal and family cases that were completed resulted in resolution without adjudication; often the alleged abuser completed the Partner Abuse Response Program (PAR), resulting in a withdrawal of criminal assault charges and entry into a peace bond (recognizance under s. 815 of the *Criminal Code*, with a condition to restrict contact with the victim), while the family law proceedings were resolved by settlement of terms of custody, access and child support.⁶⁵

There have been five criminal trials held, with the offenders (fathers) found not guilty in three cases,⁶⁶ an offender found guilty in one case, and one criminal trial ongoing as of September 2014; one family case resulted in an order made at a case conference that was successfully appealed.⁶⁷ In one criminal case where the father was found not guilty, he then successfully appealed the order in his family proceeding and a new hearing has been ordered in front of another family court judge, on the basis that both IDVC judges had prior involvement in the case. The fathers in all five of these cases (including the father who was found guilty of assault on the

⁶⁵ The results of these cases will be reported in subsequent publications.

⁶⁶ There has been two reported decisions: *R v Lutete*, 2014 ONCJ 11, [2014] OJ 104 per Bovard J and another per Bovard J: *R v Bristol*, 2014 ONCJ 324. The majority of the criminal cases have been resolved by guilty pleas or entering into a recognizance. In addition, of the criminal cases that went to trial, the fathers continue to have access with their children in the family dispute.

⁶⁷ *Afful v Laing*, 2014 ONSC 74.

mother of his child) were requesting joint custody and/or equal shared time of their children in the family dispute.

EVALUATION OF THE INTEGRATED DOMESTIC VIOLENCE COURT

Methodology: Family and Criminal Court Outcomes

Based on the review of the literature and the stated objectives of the IDVC, the Research Advisory Committee identified five basic questions that our research team hopes to address regarding process and outcomes. They are:

1. Is there a reduction in conflicting or inconsistent court orders as a result of the IDVC?
2. Is there a reduction in court appearances as result of the IDVC?
3. Is there greater information sharing between the Crown and family court as a result of the IDVC?
4. Is there enhanced consistency and coordination for victims/offenders as a result of the IDVC?
5. Is there more safety for the victim and more accountability for the offender as a result of the IDVC?

The multi-method evaluation (i.e., quantitative and qualitative) began by establishing a baseline data set of variables to compare with the IDVC variables as previously stated. This included a review of every third family court file opened between the years 2003 – 2010⁶⁸ in the downtown

⁶⁸ Similar to other studies (Rachel Birnbaum & Nicholas Bala, "Toward a Differentiation of 'high conflict' Families: An Analysis of Social Science and Canadian Case Law" (2010) 48:3 Fam Ct Rev

Toronto family court (311 Jarvis St.), and recording the necessary demographic information and outcomes (e.g., ages of parents, ages of children, employment status, income, criminal charges and convictions, other charges and convictions, number of judges involved, number of appearances in total, child support, custody and access arrangements, etc.) for the purpose of gathering baseline data for comparison to the IDVC cases. In total, 398 closed family court files were reviewed that had an allegation of domestic violence or included a report about a criminal charge or conviction related to domestic violence. The researchers then matched the names, dates of birth, and criminal charges and convictions that were stored on a separate computer database system for criminal court files

403; Rachel Birnbaum & Nicholas Bala, “Judicial interviewing with children in custody and access cases: Comparing experiences in Ontario and Ohio” (2010) 24 Int. J. L, Pol & Fam 300.; Rachel Birnbaum, Nicholas Bala & Francine Cyr, “Children’s experiences with family justice professionals and judges in Ontario and Ohio” (2012), 25 Int. J. L Pol & Fam. 398. Katz & Rempel, *supra* note 51, used court files as a source of data collection. Not all the information is recorded in the files (i.e., date of births, complete names, whether the litigant had a lawyer or not, etc.) and not all the family files were easily accessible as some were in storage. In addition, not all litigants and lawyers understand and define domestic violence in the same manner when they complete their court documents, therefore the researchers looked for a broad definition as possible until the files could be included or excluded for purposes of matching.

Additionally, similar to other studies (Katz & Rempel, *supra* note 51; Fritsche, Cissner, & Puffett, *supra* note 41; Steketee, Levey, & Keilitz, *supra* note 43) that use court databases as a source of data collection, most if not all courts have different databases that house family and criminal court data thereby making it more challenging for researchers to conduct research. More importantly, the different databases make it even more challenging for the courts to identify the cross over cases (family disputes with criminal offences) without significant dedicated administrative support.

only.⁶⁹ From these files, a total of $n=160$ matched family and criminal court files were obtained for baseline purposes for matching.

In addition, the first author attended and observed cases before the IDVC court, which are held every other Friday since inception, observed community outreach and stakeholder meetings, observed operational meetings of the IDVC court, and interviewed the 17 key professional stakeholders involved in the IDVC, as well as two victims and two offenders (2 female victims, 1 female offender and 1 male offender) who had gone through the process to date (total $n=21$).

Below we present descriptive baseline data that will be used for comparison purposes to the IDVC outcomes in this ongoing research project. It is important to note that in order to evaluate the IDVC, given that this is the first of its kind in Canada, we had to establish a baseline data set to compare outcomes to the IDVC. Therefore, we matched family files with corresponding criminal files where domestic violence was an issue in the same families. This also means that the mothers and fathers were in different courts at different times throughout their criminal and family court litigation($n=160$). Therefore, the proceedings were not sequential or case managed by one judge as in the IDVC. Having said this, important outcome variables being matched such as number of

⁶⁹ Similar to other studies (Katz & Rempel, *supra* note 51; Mark Morris Associates, *Final evaluation report: Integrated Family Court: Helping families and children in Cocacoino County, Arizona, 2008*) matching names was challenging because criminal databases do not list the name of the victim but only the accused and the victim may not necessarily be the other parent of the child noted in the family court file. Therefore, hand searches had to be conducted in the criminal courts where the offender was charged. Due to funding limitations only criminal courts within travelling distance (i.e., the Municipality of Greater Toronto, Ontario) could be accessed.

judges, length of criminal process, and number of trips back to court, breaches, etc. can be more closely examined in comparison with the IDVC . Finally, we also identify the challenges associated with gathering data from files that are in separate courts and in separate databases; namely, when the court operates “in silos” it limits how both criminal and family court information can be collected about any one family.

This appears to be the first time in Canada that empirical data has been gathered on outcomes matching both criminal and family court files.

Results

Family and Criminal Court Baseline Data

In the baseline data set, overwhelmingly, the mother (82%) was the applicant in the family litigation. As of the date of the commencement of litigation, the mean age of mothers was 35.3 years of age (median of 35 years), and the mean age of fathers was 39.7 years of age (median of 39 years). The average age of the first (or only) child was 5 years of age. In a majority of cases (54%) there was only one child; in about a third of cases (33%), there was a second, younger child with an average age of 4 years of age.

The mean mother’s income was \$19,298 per year (median of \$14,019 year), and mean father’s income was \$26,731 (median of \$21,812). At the start of the proceedings, 95% of $n= 160$, mothers had sole custody (88%), much more often than fathers (4%).⁷⁰

A child protection agency was involved in nearly a quarter (23%) of the cases. The Office of the Children’s

⁷⁰ Other relatives made up the rest of the sample size who had custody of the children.

Lawyer (OCL) provided legal representation for the child or prepared a clinical investigation report for the court in 6% of cases, and both child protection and the OCL were involved in 3% of the cases.

Mothers requested an initial restraining order under family legislation in 53% of the cases, and variation of access in 92% of the cases.

Final Outcome Data of Baseline Study

In the vast majority of cases mothers had custody at both the commencement (88%), and at the conclusion of the family proceedings (85%). Only 3% of the parents shared joint physical custody at the commencement of the proceedings, increasing to 7% as a final order. Fathers had no access initially in 32% of the cases, and at the conclusion of the proceedings this had fallen to 19% of the cases. Mothers had no access initially in less than 1% of the cases and a final order for no access to the mother was made in 4% of the cases.

These changes in custody and access arrangements might suggest that, despite concerns about domestic violence issues in these cases over the course of the family proceedings, there is an increase in involvement of fathers alleged to be abusive partners in the lives of their children. This finding requires more study. One hypothesis is that over the course of proceedings there is a decrease in violence and risk, allowing for more involvement of both parents in the lives of their children. An alternative explanation might be that the family justice process does not adequately take account of domestic violence concerns.⁷¹ This research question will be further explored in the qualitative interviews.

⁷¹ MacDowell, *supra* note 18.

Fathers were more likely than mothers involved in the proceedings to have criminal convictions (found guilty) for offences other than domestic violence charges before the court. The other convictions include assault on an individual other than the parent of the child, drug offences and driving offences, etc.⁷²

Professional Stakeholder Interviews

In 2013, after the IDVC was operating for a year, semi-structured interviews were conducted by the research team's Principal Investigator with a total of 21 participants (e.g. 17 key professional informants involved with the court, as well as one female offender, one male offender and two female victims). The interviews were audio-recorded, transcribed verbatim and coded for key themes.⁷³ The interviews ranged from 20 minutes to one hour. To protect the anonymity of those interviewed, the gender of the stakeholder is not being reported. Five interview questions were developed in collaboration with the research advisory sub-committee for the professional stakeholders:

1. What are the challenges and benefits of information sharing between the two systems?
2. What are the challenges and benefits of having one judge hear both matters?

⁷² The "other" charges and convictions will be further explored in our subsequent publications about the IDVC outcomes.

⁷³ Data were analyzed through open, axial, and selective coding as recommended for grounded theory data (Corbin & Strauss, *supra* note 17) to identify themes using the N*Vivo software. Themes were identified when these emerged with consistent frequency within and across interviews as well as having reached saturation in the qualitative analyses.

3. What are the challenges and benefits of having community supports attached to the court?
4. Does the court provide effective communication and collaboration between the justice system, victims, accused and community supports? and,
5. Do you have any other comments about the integrated domestic violence court, especially any improvements?

Demographic information for the professionals was limited to years of experience in criminal and family courts. All the professionals interviewed had 10 years or more of experience in their profession, whether as a judge, Crown, a family or criminal lawyer, or as the community supports. It is important to note that at the time of the interviews, the family and criminal defence lawyers representing litigants had had only one case each before the IDVC. Therefore, their experiences were limited with the operations of the IDVC, in contrast to the judges, duty counsel, and Crown prosecutors and support workers. However, as this court is unique in Canada, none of the professionals interviewed had any previous experience with an integrated court. In some ways this was fortuitous, as they had few pre-existing biases and assumptions about such a process. It will be important to interview the stakeholders again about their views and experiences after they have had more cases and experiences with the IDVC to see if there are any similarities or exceptions compared to their early experiences.

Thematic Responses of Professional Stakeholders

Challenges and benefits of information sharing between the courts

Views about the challenges and benefits of information sharing depended on the professional role of interviewees, and whether the lawyers represented the accused or the complainant (alleged victim).

Judges appreciated the value of information sharing, observing:

“I have heard more about the Crown’s position in terms of how they view the charge, understanding that, understanding the detail of the allegations as they reported to the police gives me a clearer picture of what is happening in the case.....” [judge].

“Understanding not only what the allegations are but when they were made, circumstances that were there, and who made them starts to give you a much clearer understanding of what the issues and concerns are, what the safety concerns are, and, potentially, in some cases, motivation” [judge].

Crown prosecutors had generally positive views, while lawyers representing parents generally expressed concerns:

“I want more information-sharing and not less” [Crown].

“It is a challenge to keep monitoring the programs [services] and bring the criminal case to a conclusion” [Crown].

“I worry about saying something in family court that the criminal court will hear and use.” [family lawyer].

“...complainant is typically not present during criminal proceedings...At the IDVC, the complainant [who is attending because there is also a family proceeding] can have an influence ...on crown” [criminal duty counsel].

“ [It] takes longer to deal with [a case] as multiple lawyers are speaking and it is not an efficient use of counsel time.....impinges on legal aid issues” [family lawyer].

Many of the family lawyers reported that they “liked the idea” of sharing of information, with a degree of variation dependent on whether they were representing the alleged abuser or the alleged victim, with more caution if they were representing the alleged abuser (almost always the father).

Both the criminal and family lawyers appeared to be waiting to see how the court worked over time before they formed definitive views.

The judges were very positive about obtaining more information on both the criminal and family aspects of the cases to assist in their decision-making, and also supportive of the Crowns and other lawyers also hearing all the information. One judge commented on the value of the Crown prosecutor having this information: “[He/she] sits and watches family case too, so I think the Crown gets a picture of what is happening as well with the family and so that may color what [he/she] is prepared to do because it is a different picture.”

Challenges and benefits of hearing both matters before one judge

A common concern raised by the criminal and family lawyers during the early planning process was whether judges could truly disregard information that they hear in one proceeding that would be inadmissible in the other, and, how their decision-making in the criminal matter might impact on the family matter or vice versa. However, it is a common occurrence in all types of cases for judges to hear evidence and then rule that it is inadmissible and disregard it. The following supportive comments contrast with the concerns raised in the planning process:

“I think one of the big challenges is for the bar to start understanding how to handle it, how to maneuver it [IDVC] in a forum that has all the information of both criminal and family before it” [judge].

“[Having] one judge [allows that person to be] more informed for pre-trial and digs to the root of the issue” [criminal duty counsel].

“Greater impetus for parties to resolve issues. Greater chance of resolution as accused has the benefit of alternative measures” [family duty counsel].

“More holistic” [community support worker].

Challenges and benefits of having social service supports attached to the court to assist victims

The IDVC has three different support workers, as noted above: a community resource coordinator, a worker from the victim witness assistance program (VWAP) for the alleged victim, and

a family support worker (FSW) to assist the victims in their family cases. Further, the court had access to a Dispute Resolution Officer (DRO), a lawyer, who met with the parents and their lawyers to narrow the issues in the family dispute and ensure that the case was “judge ready” (i.e. that appropriate documents had been filed and if there was any agreement on any issue). Comments varied about the role and function of these social supports and DRO to the IDVC. Some were very positive about the range of services available:

“The more resources for the criminal case to be resolved is better and as is working towards rehabilitation attempts” [criminal duty counsel].

“The introduction of the Dispute Resolution Officer, was helpful and was available on a without prejudice basis” [family law lawyer].

Concerns were, however, expressed about too many services being provided in an uncoordinated way, about the absence of certain types of services, especially for offenders, and the possible misuse of information by service providers:

“Lots of services: I wonder how the three roles and services impact on cases...is it too much?” [family lawyer].

“A concern if a worker has statements from accused and the community resource worker has no confidentiality with Crown and may influence the decision [of the Crown]” [criminal duty counsel].

“Impact on victim...recognize that they may be overwhelmed, see both sides of case and they do not want to go through process” [community support worker].

“There is a system issue about timing...getting information and not moving fast enough with legal aid, crown, etc” [community support worker].

“There should be two support people; not just one. I find it a little lopsided...we seem to have a lot of support for the victim and not a lot of support for the accused” [judge].

Does the IDVC provide effective communication and collaboration between the justice system, the clients and the community groups?

Views about whether the IDVC improves communication and co-ordination very much depend on the roles of the interviewee in the justice process.

A major theme identified was the challenges with obtaining legal aid certificates that would be adequate for all of the time needed to be present in court, and the time needed for court preparation and documentation as a result of hearing both matters sequentially. Some of the positive comments included:

“It is often a struggle to fashion suitable bail terms, and now the Crown’s more readily available and it is more easily done...aligned better” [criminal duty counsel]

“Defense can really get a wealth of information from the family court file” [criminal duty counsel].

Some of the concerns included:

“[My possibility] to speak to the crown is limited as legal aid certificates precludes it” [family lawyer].

“There are no resources online about the court” [family lawyer].

“Criminal legal aid is asking for separate certificates...creating a problem” [family lawyer].

“...more effective communication of criminal matter if resolution is being reached” [family lawyer].

“needs more services such as substance abuse programs, special needs kids, parenting” [community support worker].

Judges recognize that the process of adaptation will take time:

“Everybody is feeling their way through and suffice it to say that the administration and bureaucracy in managing the court dates, judges, lawyers and everything...it may not be as smooth as it could be” [judge].

“Whenever I sit in the court, you see a whole bunch of people there, writing and taking notes and everything, so I think that is one of the big challenges that I have to remind myself every time I have to take my time to explain exactly what I am doing, and why I am doing it” [judge].

Additional thoughts or comments about the IDVC

Many of the professional participants were optimistic and hoped that the goals of the court would be met. Some of the comments reflecting cautious optimism included:

“Cautious optimism of the court...it resolves in better custody and access decision-making” [family lawyer].

“It is more holistic, fairer and more streamlined” [family lawyer].

“Getting backing of the Ministry of Attorney General has been helpful” [community support worker].

“I see it as a good thing and I am pleased with its results so far and amount of work done in one day...specially the [reduction] in meaningless appearances in other DV cases” [Crown prosecutor].

Many expressed support of the idea of the IDVC, but were uncertain about whether it was meeting its objectives or expressed concerns about implementation:

“I really support the idea, but we still do not know how well it’s working” [family lawyer].

“The IDVC needs better commitment for getting interpreters” [community support worker].⁷⁴

⁷⁴ Sometimes two interpreters were needed for one case and it was not always known until the actual court date. This has since changed and interpreters are readily available.

“Delays of transfer of files for IDVC remains a problem” [community support worker].

“Rules of the court should be contemplated; we need real clarity about whether accused has the right to return to regular steam [DV court]” [criminal duty counsel].

“A great idea, but what we need is more clarity of rules, jurisdiction of court, website, databases....so lawyers can locate resources” [family lawyer].

A few continued to express skepticism about the IDVC, as reflected in the comment of one family lawyer: “Two different issues. I am not sold on the concept.” Other family lawyers, however, commented that IDVC process was no different than family case management in the regular OCJ family court.

Before they attended in the IDVC, some of the lawyers believed that they needed to be experienced in both criminal and family matters in order to provide effective representation in their part of the proceeding in the IDVC; however, they discovered that because the proceedings were sequenced rather than combined, this was not required.

Thematic Responses of Victim and Offender⁷⁵

The following 9 questions were developed in collaboration with the Research Advisory Sub-committee for the victim and offender interviews:⁷⁶

1. Were you victim or accused?
2. What services, if any, did you receive from the community support worker/any other staff member? Were you satisfied with the service? If not, why not? How would you improve the service to victims/offender?
3. Did you have an opportunity to express your thoughts and concerns regarding your case during the court process? (Probe: Did you feel that the judge/lawyers/community workers heard your concerns?)
4. Did you find that having one judge hear both your domestic violence charge and deal with the separation issues was helpful/useful to you? If not, why not? What would you recommend to others in your situation?

⁷⁵ We include these interviews to date as they provide an important voice and contrast with what professionals report—that is, their unique experiences of the court as the victim and offender. We in no way draw any conclusions about any of the interviews with any of the participants. Each victim and offender interviewed receives \$20.00 as an honorarium for their valuable time. The child receives \$25.00 for their valuable time.

⁷⁶ Cultural backgrounds and the use of translators will also form part of the subsequent publications.

5. Did you feel that the judge listened to you about your case? (Probe: the judge was adversarial/compassionate about your situation?)
6. Did you find that the court process had an impact on your children (i.e., academically, behaviorally, socio-emotional)? If so, in what way? Do they visit less/more often with the other parent (before/after)?
7. Did you/ your former partner complete any/all requirements of his/her conditions? What are your thoughts on whether the programs/services assisted you in dealing with issues before the court? (Probe: anger/child management)
8. Did you have involvement with the Office of the Children's Lawyer (lawyer/social worker) or assessment? Were you satisfied that they understood your situation?
9. Is there anything else you would like to share about your thoughts on the IDVC or ask of me?

Both the female victim and female offender⁷⁷ in two different cases heard at the IDVC received similar services in connection with court during the IDVC process. The other female victim and male offender were separated parents and also received similar IDVC services.

The female offender was overwhelmed initially, as she had a young child and her criminal case was in the midst of being transferred from a special domestic violence criminal court to the IDVC. She reports, "the community resource worker was

⁷⁷ Assault charges were withdrawn against the offender after she obtained counselling for her anger.

an amazing support, understood right away what happened...got me to IDVC...gave me a name to [community counselling source] as ordered by the judge.”

One female victim was assisted throughout the criminal and family proceedings by the same interpreter who was also made available for the research interview.⁷⁸ She [victim], too, was satisfied with each of the services the IDVC had to offer: “I was comfortable with the services and they were helpful.”

Were concerns heard by the IDVC judge?

The female offender believed, “the judge was fair, largely what she [judge] said made so much sense,” and the victim in the case reported, “I was able to express myself...I felt heard by the judge.” The male offender pled guilty and commented: “I had little to say to the judge as a result”; “I wish I could have told my partner that I was getting help” .

Thoughts on one judge hearing both criminal and family together, how was case handled by judge?

One of the female victims believed that, “it was a good idea to have one judge know what is going on.....also good idea for same interpreters throughout legal process.” The female offender stated, “she [the judge] saw what I was going through on so many levels.....to have the judge see everyone’s viewpoint.....a criminal judge alone would not see me as a mother and family issue.” “She also stated that, “she [judge] saw me more as a complete person.”

⁷⁸ Having the same interpreter greatly facilitated the research interview, an issue that will be explored with further interviews.

Impact on children?

One female victim reported that her children are in counselling as a result of the violence and to assist, “in working out their joint custody arrangement”. The other female victim reported that, “the child is doing well and the father has no access as he is out of the country.” It is not uncommon for victims to feel that once the offender is out of their life and their child's life that the child is adjusting well.

The female offender who has sole custody of their child stated: “The child sees the father [more] regularly than before the whole process...I think it is good.” The other female victim also reported that, “he got help and that helped the children”. The male offender [parent of the children] stated, “my behavior did have an impact on my kids”.

Thoughts on programs and services?

The female victims reported that, “the services [victim witness program] was helpful.” However, one female offender stated: “I wished they had a similar partner abuse program for women.” She also stated that she was not satisfied with the police, child welfare or mediation services, “in terms of their understanding of the issues” which was why she was grateful to be in the IDVC.

Discussion of Thematic Findings

The majority stakeholder professionals who were interviewed were on the whole positive about the potential of the IDVC and their experiences to date. While it is valuable to hear their views, as they are major users of the new integrated system, it is important to be aware of the context of their expressions of opinion. In particular, only the judges, Crown prosecutors and community and family court support workers had more than one case in the IDVC. Therefore their positive experiences are

based on more in-depth knowledge of the workings of the court.

However, both the professionals who appeared regularly and those with more limited experience shared common themes and concerns. In particular, both groups expressed concerns about the length of time needed to hear both cases, and its expense for litigants: it may require two lawyers (one for criminal and one for family) to be in court for each litigant for a longer period of time, and Ontario Legal Aid can only provide a small amount of coverage, resulting in frustrations for lawyers and litigants.

It was widely recognized that improved technology would assist in matching files, that there is a need for dedicated administrative support and a website to assist lawyers and litigants to understand the purpose and rules of the IDVC. There was also broad concern about the fact that the Partner Abuse Response (PAR) program was not initially available for abusive spouses for intake at the court during hearing days. This issue has since been addressed to assist the IDVC process and facilitate access to counseling for abusive partners. In addition, some family files not only had the criminal matter but also involved child welfare or immigration issues, thereby adding another layer of systemic complexity to the IDVC process. Similar concerns have been raised in studies of other integrated domestic violence courts⁷⁹ in which child welfare issues also arise.

Both the victims and offenders spoke positively about their experience in the IDVC and services associated with it. Their comments focus on the IDVC in terms of process and the impact on their lives and their children's lives in contrast to the

⁷⁹ Katz & Rempel, *supra* note 51; Rickard, *supra* note 49; Levey, Steketee & Kelitz, *supra* note 43; Uekert & Rubin, *supra* note 60.

impact of the substantive and procedural legal issues as reported by the lawyers and judges.

Time will tell how the Toronto IDVC will respond to the issues raised by the stakeholders, especially in a period of growing fiscal constraints for the justice system. For the IDVC to be successful it will require more specialized support services to support the victims and offenders as well as administrative support to the court: this will be challenging as both the family and criminal justice systems are being asked to do more with less. It will also be important to hear from more victims, offenders, and their children about whether or not their experiences with the IDVC are positive or negative, and why.

A major issue for the pilot project is the relatively small catchment area for the IDVC. That is, only criminal and family matters from two downtown Toronto sites of the Ontario Courts of Justice courts are automatically referred to the IDVC. Only a limited number of children and victims of violence are able to have their cases heard by a specialized, integrated court dedicated to their particular needs. The lack of cases jeopardizes the viability of this project. The authors support including, for referral to the IDVC, domestic violence cases from other court sites in the City of Toronto and that a dedicated administrator be made available for identification and referral of cases to the IDVC.

Involvement in the IDVC resulted in some of the professionals taking a broader, more reflective view of the emotional and financial costs of continuing to operate separate courts, as illustrated by the comment of a lawyer: "The adversarial system is a waste."

**CONCLUSIONS: MORE EFFECTIVE APPROACHES
TO FAMILY VIOLENCE – PRACTICE, POLICY AND
RESEARCH**

This paper has described the process of establishing the first integrated criminal and family court in Canada, summarized the views and experiences of the professional stakeholders as well as a few victims and offenders in the IDVC, and explained the gathering of the baseline data to be matched to compare outcomes to the IDVC as part of the multi-method evaluation process (i.e., quantitative and qualitative) of the research.

Like other researchers, we have identified challenges and limitations in using court files as a source of data collection, as significant information is often not recorded in the files (i.e., age of parties and their children; income, whether the litigant had a lawyer or not, etc.), and not all the family files were easily accessible as some were off site.⁸⁰

We have identified the limitations to the stakeholder's comments and the limitations of hearing from two victims and two offenders to date. There is a need for ongoing evaluation that includes an examination of outcomes related to the goals of the court, as well as hearing from victims, offenders and their children. However, the preliminary views of stakeholders suggest that the IDVC seems to be having a positive impact from a systemic perspective. That is, information sharing between the criminal and family courts appears to be a positive outcome.

Finally, further research is required using a matched sample that will hopefully address the critically important

⁸⁰ Rachel Birnbaum, Nicholas Bala & Francine Cyr, "Children's Experiences With Family Justice Professionals and Judges in Ontario and Ohio" (2011) 25:3 Int'l JL Pol'y & Fam 398; Katz & Rempel, *supra* note 51.

outcome issues: Is the IDVC reducing reoffending and increasing safety for victims and their children? How do parents feel about having both types of cases dealt with together? Do alleged abusers and alleged victims have different views? Are children whose cases are resolved in the IDVC having their needs better met? Part of an integrated court system might allow judges to better address perpetrator's behaviour, as both a spouse and a parent in appreciating the impact of their behaviour on their children,⁸¹ are domestic violence perpetrators receiving the counselling they require?

Recently, the Federal-Provincial-Territorial Working Group on Family Violence released a Report that identifies challenges when there are concurrent family, criminal and child protection proceedings for one family.⁸² The Report acknowledges that different approaches are needed that account for variation in cases as well as legal and resource issues in different locales, but highlights the Toronto IDVC as a "promising practice." We agree, though clearly further evaluation is required. Addressing the research questions identified in this paper will provide an important foundation in considering the expansion of the IDVC to other sites in Canada.

⁸¹ Scott & Lishak, *supra* note 25.

⁸² Available at <<http://www.canada.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/mlfvc-elcvf/index.html>>.