



DEPARTMENT OF JUSTICE

Making the Links in Family Violence Cases: Collaboration among the Family, Child Protection and Criminal Justice Systems

Interprovincial forum on judicial treatment of domestic violence

Montreal, May 11th and 12th, 2015





Why focus on family violence and the justice system?

- Multiple justice systems (family, child protection, criminal) may be involved in family violence situations and there is currently very little coordination between them.
 - Lack of coordination can lead to:
 - confusion for families navigating the justice systems;
 - inadequate information sharing and inconsistent orders ;
 - increased risk to victim and public safety;
 - costs for families and inefficiencies for the justice system; and
 - lack of public confidence in the justice system and of effective access to justice.
 - Numerous domestic violence death reviews, inquiries, and coroner reports have cited the lack of coordination between officials operating in these systems as a contributing factor in tragic family homicides.
 - The topic of the intersection of the justice systems in family violence cases is of interest in every PT, as well as courts, law societies and the National Judicial Institute.
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Family violence

- **Separation and divorce can exacerbate family violence** – almost one-fifth (17%) of Canadians indicated they had experienced physical or sexual violence at the hand of their former partner.
- **In 2010, family violence accounted for one-quarter (25%) of police reported violent crime** - almost half (49%) the family violence victims were victims of spousal and ex-spousal violence while the other half (51%) were children, siblings or extended family members.
- **In 2011, almost one third (32.6%) of all solved homicides were family homicides** - nearly one quarter (22%) of the victims were children.
- **The economic costs of family violence were \$7.6 billion or \$225 per capita in 2009**
- **Family violence has a disproportional impact on:**
 - **Women**, who report incidents of family violence nearly four times more than men and are almost three times more likely than men to be killed by a current or former spouse; and
 - **Aboriginal Canadians** who are almost twice as likely as non-Aboriginal Canadians to report being the victim of spousal violence (10% versus 6%).

Note: all statistics are from Statistics Canada.



Background

- In order to address the challenges posed by the intersection of different justice system responses to family violence, a joint working group of officials from in the areas of family justice, criminal justice, youth justice, victims of crime as well as FPT Heads of prosecution was created. The Ad Hoc Working Group undertook its tasks in consultation with other FPT Fora: the FPT Directors of Child Welfare Committee, FPT Aboriginal Justice WG, and the FPT WG on Family Violence Prevention (coordinated by PHAC).
- Mandate of Working Group: identify issues faced by the intersection of the family justice system (including child protection) and the criminal justice system responses to family violence and to identify promising practices
- Working Group Report – *Making the Links in Family Violence Cases: Collaboration among the Family, Child Protection and Criminal Justice Systems* is available at:
<http://www.justice.gc.ca/eng/rp-pr/cj-jp/fv-vf/mlfvc-elevf/index.html>
- Important background reports: Professor Linda Neilson “[*Enhancing Safety: When Domestic Violence Cases are in Multiple Legal Systems*](#)”, Di Luca, Dann and Davies, “[*Best Practices where there is Family Violence \(Criminal Law Perspective\)*](#)” and Professor Nicholas Bala and Kate Kehoe, [*Concurrent Legal Proceedings in Cases of Family Violence: The Child Protection Perspective.*](#)



What's the issue?

- In situations of family violence, multiple justice systems may be involved and there is currently very little coordination between them.
- Some examples:
 - When the police release an accused or a decision is made with respect to judicial interim release – decision-makers often aren't aware of the existence or content of family law or child protection orders. As a result, inconsistent orders can result
 - Criminal orders can have a huge impact on family proceedings ex. no-contact orders can effectively provide exclusive possession of the family home, sometimes in inappropriate cases
 - Criminal and family court systems operate separately from one another – family members may have multiple appearances in different courts at different times on related matters. In at least one jurisdiction, the family and criminal courts are not even in the same building. This can mean having to tell the same story multiple times, missing many days of work - all at a very stressful time in people's lives.

What's the issue?

Examples continued:

- Family and child protection proceedings are sometimes delayed as a result of criminal proceedings
- Counselling, and sometimes even negotiation, may be precluded in the family context because of no-contact provisions in a bail order
- Family litigants may be apprehensive about addressing some issues for fear of the impact on the criminal proceeding
- When family members are accessing family justice services, if there is a lack of knowledge about parallel or related proceedings or orders, they may participate in inappropriate services ex. mediation
- Because the system is fragmented and there is a lack of communication, sometimes, no one actor has a full appreciation of the nature of risk to victims

What's the issue?

- Identifying multiple proceedings:
 - Coordination between different court systems is facilitated when the various actors involved – the parties, court staff, judges, lawyers – are aware that there are in fact multiple proceedings or orders and that these are relevant to one another
 - In Canada there is no jurisdiction which has the technological capacity to do this systematic matching of criminal, family and child protection cases on an automated ongoing basis.
 - Some common challenges facing jurisdictions:
 - the records in civil cases (family, child protection, protection order) and criminal cases are often housed in different systems
 - in many cases, the different systems use different technological platforms and as a result, it is not technologically possible for the two systems to speak to one another
 - it is sometimes the case that provincial and superior court computer databases are not linked
 - Manual searches while possible, are time consuming, particularly in larger jurisdictions
 - Searches are complicated by: different identifiers being recorded in different systems, human error

Some examples of promising practices

- *Making the Links* identifies a number of promising practices to promote coordination including:
 - Integrated threat and risk assessment centres
ex. I-TRAC
 - Protection Order/Court Order Registries
ex. British Columbia
Prince Edward Island
 - Coordination of Services
ex. Family Court Support Worker
 - Cross-referencing of cases between family and criminal courts
ex. Court Coordinator
New York State – Automatic Case Identification System



Some examples of promising practices

- Statutory amendments requiring litigants in family court to provide information or requiring the family court to ask about the existence of family violence.
ex. Québec
- One family – one judge – it's a spectrum
 - Case coordination within each system
 - Case coordination within the civil system and/or within the criminal system
 - Integrated Domestic Violence Courts
- Judicial communication where there are concurrent proceedings related to the same family.
- Coordinated court or court coordinator models / liaison for courts and service coordination.





Next Steps

- The final report identifies some of the challenges of simultaneously navigating the family, child protection, and criminal sectors of the justice system in family violence cases and highlights approaches implemented in Canada or elsewhere, or which have been identified to address these issues.
- This report is intended to be used as a resource for justice system professionals and those working within the criminal justice, family justice, and child protection systems.

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