

Challenges surrounding coordination measures among different courts – A British Columbia perspective

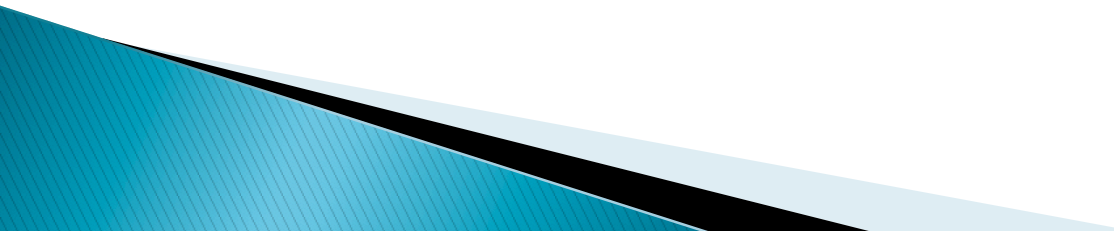
Dr. Margaret Jackson and the Honourable Donna Martinson
FREDA Centre, Simon Fraser University, Burnaby, Canada
International Forum on the Judicial Treatment of Domestic Violence
May 2015
Montreal, Quebec

Overview

I. Roundtable Meeting with B.C. Provincial Court and Supreme Court Judges – Canadian Observatory Project

II. Better Responses to Violence against Women – British Columbia Justice Summit IV

Coordination Challenges I.:
Roundtable Meeting with B.C. Provincial Court
and Supreme Court Judges
January 21, 2015
Canadian Observatory Research Project



Findings

- ▶ Judges had no difficulty with receiving information about
 - the existence of other court proceedings and
 - the orders made in those proceedings
- ▶ More concerns were expressed about sharing information that may be relevant to the risk of future violence:
 - What use would be made of that information?
 - Eg. A judge should not get a Report to Crown Counsel prepared by police during a police investigation.

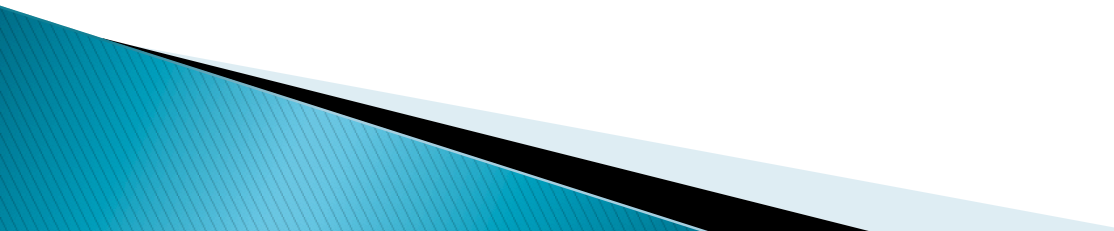
Findings, continued

- ▶ Some judges were concerned about the amendment in Australia requiring the family court judge to ask about the existence of family violence.
 - Those judges felt it was not their role to gather evidence
 - One judge said that “there are serious concerns that exist when there are conflicting court orders”. Judges should “take a little more time and ask a few questions...”

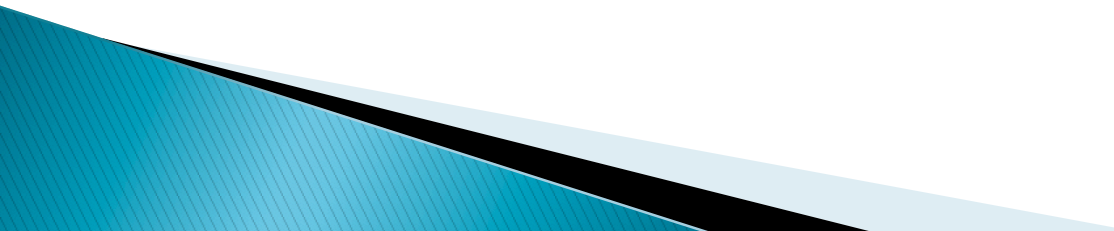
Findings, continued

- ▶ The same judge said the “fact that there have not been more cases of serious injury or death as a result of conflicting court orders is due more to good luck than good management.”
- ▶ All of the Judges were concerned about the limited amount of court time available.
 - Some felt that asking questions relating to the risk of future harm could “de-rail a proceeding.”

Findings, continued

- ▶ Judges felt that lawyers who act in family proceedings are often not well-informed about
 - the status of other criminal proceedings and
 - what other court orders might say.
 - ▶ The challenge of getting accurate information about other proceedings is even more difficult with people who do not have lawyers.
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Coordination Challenges II.:
Better Responses to Violence against Women
British Columbia Justice Summit IV
Attorney General and Ministry of Justice
November 28–29, 2014



Justice Summit

- ▶ Goal:
- ▶ Make realistic attempt to achieve a more holistic approach in coordination of criminal justice, family justice and child protection issues
 - As it relates to effective response to violence against women.

Caveats to Coordination to be addressed

- ▶ For many Aboriginal people, the question of coordination of matters is problematic
 - Because it presupposes consideration under formal procedures.
- ▶ Full coordination is highly complex;
 - Requiring a great deal of analysis
 - Potentially integrating two different analytical frameworks (and sets of constitutional issues)

Caveats, continued

- ▶ Many elements restricting coordination are important safeguards and guiding legal principles.
 - Care required to ensure new injustices are not created while trying to avoid undesirable ones.
- ▶ If coordinated “too much”
 - some participants felt DV could be turned unintentionally into a private matter when it should remain a societal issue.

Caveats, continued

- ▶ Finally, consideration as to scope:
 - Would this approach be applied only in specific court settings and/or designated days?

Thanks!

- ▶ Dr. Margaret Jackson
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- ▶ The Honourable Donna Martinson
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- ▶ Discussion Paper:
<http://fredacentre.com/wp-content/uploads/2010/09/Discussion-Paper-Jackson-Martinson-Risk-Of-Future-Harm-Family-Violence-And-Informaton-Sharing-Between-Family-and-Criminal-Courts-January-2015.pdf>

Discussion

