

The Network to Eliminate Violence in Relationships (NEVR) is a non-profit organization established in 2011 in the Lower Mainland area of British Columbia, Canada. NEVR has over 200 dedicated cross-sector professionals and service providers representing over 100 organizations.

**Every Door Should be the Right Door: NEVR’s Review of Integrated
Family/Criminal Court**

(Authors: Glaucia Salgado, Leslie Brunanski March 2022)

NEVR’s practices and recommendations are based on a social constructivist environmental framework in that our knowledge about the world is socially constructed and certain things only exist because we give them reality through social agreements. Therefore, meanings are developed jointly as individuals interact with one another (Leeds-Hurwitz, 2009).

Using this lens to interpret interpersonal violence (IPV), NEVR understands that the individual, family, and community all interact with each other establishing a culture that will either accept or reject interpersonal violence (IPV).

NEVR’s 2021 Conference: Just Us

In British Columbia cases of domestic violence has increased since the COVID-19 pandemic, and rates reflect a critical reality experienced by many individuals. In 2019, there were 102,316 police-reported cases of family violence and other 297,181 linked to relationship violence (e.g., intimate partner, boyfriend, girlfriend, friend, etc.) a total of 399,497 cases (Conroy, 2021).

In June of 2021, NEVR hosted a three-day virtual conference with the title “JUST US” which focused on Surrey Provincial Court systems that deal with intimate partner violence.

During the 2021 conference, we had an opportunity to hear from police officers, Crown prosecutors, lawyers, forensic nurses, and other services providers, as well as survivors of intimate partner violence. The conference allowed a good, hard look at how the current court system responds to cases of intimate partner violence and the often crossover experience of family law needs.

Intimate partner violence, often referred to as family violence, or domestic violence, affects individuals across age, gender, race, ethnicity, socioeconomic status, and level of education. Statistically the majority of victims/survivors are women and other minority groups, and thus this conference was focused on these population groups.

The conference addressed two main questions:

- What are the pros and cons of the current Provincial Family and Criminal Court system in BC?
- What are the pros and cons of Ontario's Integrated Domestic Violence Court system?

Our findings:

Around Canada, cases of domestic violence are processed by different court models. Surrey Provincial Court operates using the traditional court model of separate Family and Criminal Courts.

Ontario's Integrated Domestic Violence Court (IDVC) model is an effort to respond to issues created by the "separate silos" approach still being used in the Surrey Provincial Court model. The main focus and benefit of IDVC model is for victims/accused/complainants/defendants to have 'one judge' for 'one family'. This model allows that connected family and criminal case pre-hearings are heard by a single judge thus avoiding duplication, unnecessary multiple court appearances, and more financial burden (Burton, 2006).

The goal of this model is to reduce court appearances, promote a holistic and multi-disciplinary approach, improve compliance with court orders and increase offender's accountability. Also, to enhance access to services needed by victims/survivors. The Ontario Court of Justice has implemented the Integrated Domestic Violence Court (IDVC) which deals with domestic violence (except cases involving divorce, family property or child protection). Thus, not all cases are eligible to be held by the Integrated Domestic Violence Court system (Ontario Court of Justice, 2013).

Some pitfalls of the current Surrey court system include being inefficient, unsafe, and cumbersome for victims/complainants and their children and families. The current system is able to be manipulated by the accused/defendant to further their abusive tactics.

System Wide Challenges include:

- non-disclosure of violence,
- inconsistent understandings of abusive tactics such as coercive control across systems and actors,
- litigation tactics used to harass and intimidate victims of abuse,
- and a lack of coordination of the court processes and resources.

These include orders and agreements that don't serve a common purpose and inadequate addressing of complex needs such as mental health, trauma, substance abuse.

Dr. Peter Jaffe (2013) delineates four stages that women experience when reporting a history of domestic abuse in the current family court model. The first is not being believed at all, which we are all familiar with, by police, by court staff, by judges. The second stage is being believed, but having the

violence minimized. The third stage is being told that the violence is an adult issue, that it is not a relevant issue for the children. The fourth stage comes when the institution finally has some recognition of the impact of violence, but the victim is more often than not told to get over it and co-parent with their abuser by “putting the past behind them”.

The new Family Law Act (2013) and the following court decisions tend towards co-parenting despite the presence of abuse. The traumatic impacts of shared parenting with an abusive ex-partner are manifold. These include court ordered visits being difficult and retraumatizing for the kids but the threat of breaching a court order by denying the visit looms.

There is heavy institutional pressure from the justice system for women to look “reasonable”, which means playing down the abuse and not asking for what they really need to quell the ongoing trauma to themselves and their kids. Some statistics from the conference include that 70% of women had to field death/suicide/kill the kids threats. 50% of were advised by their lawyer to not bring up abuse and in such an unpredictable system, jaded lawyers tend to ask for less to avoid judicial ire.

The court process itself impacts the safety of victims. For instance, before and after court are danger zones. Intimidation occurs when waiting in and out of court. Plus, multiple court dates have an impact on financial stability, taking time away from work and requiring childcare.

Health impacts of the court process include not only just the stress of court itself, but also the abuser’s opportunity for ongoing abuse. These stresses in addition to the abuse and the financial costs, can and does result in PTSD, rendering victims disabled and unable to work, unable to participate fully in their court cases and unable to perform all of their life duties, including parenting.

Question for further policy:

What would court look like if it were designed for people with trauma?

In conclusion, ultimately, within the current court system, people are not finding justice. In particular, women are not finding justice. Women are not finding justice after they've been abused, and after their family has been traumatized. No wonder so many women and families don't report.

Reasons to Adopt an Integrated Domestic Court System

The IDVC has a "one judge for one family" policy. The currently common model of multiple hearings for both the family and criminal files will be cut down considerably. Deliberate delays will be reduced or eliminated as the one judge will have access to all court events. Less court time means fewer days of work missed, less childcare requirements, and less stress for all involved.

IDVC 's goals and objectives in addition to one judge for one family are victim safety, offender accountability, a streamlined court process (no conflicting court orders, increased monitoring of court orders), coordinated resources to children and families, and better integrated involvement w/community partners and resources.

Reports emerging since the conference...

Echoing some of the findings and existing discussions in the NEVR Conference, is a report entitled "Survivors' Views of Family Courts: Findings from the Canadian Domestic Homicide Prevention Initiative with Vulnerable Populations (CDHPVIP)" published in January 2022. The report represents a six-year study conducted between 2015 and 2021.

The report emphasizes the gaps in the current system which can allow for vexatious litigation and financial abuse as well as coercive controlling tactics extending into the court experience. Further issues of coercive control "that have emerged during the pandemic" are also explored (p.4).

The "Survivors' Recommendations" coming out of the report include the following:

1. Trauma informed education for judges and lawyers about the impact of trauma from exposure to abuse and what is in the child's best interest vis a vis the abuser/co-parent. The report notes that "the amendments to the Divorce Act now include a definition of [family violence] that specifies children's exposure to [family violence] as a factor for consideration when determining what actions are in a child's best interest." (p.17).
2. Make anti-discrimination education and accountability intersectional and mandatory as there is need for "increased awareness of how mistreatment and secondary victimization is manifested against survivors from marginalized backgrounds." (p.17).
3. Encourage collaboration between family violence advocates and legal professionals.
"[C]oordinating criminal and family court matters involving [family violence] could help reduce secondary victimization and institutional inefficiency, but there is currently only one Integrated Domestic Violence (IDV) Court in Canada that hears both criminal and family law cases." [emphasis added] (p.19)

This report proceeds with connecting key issues to practical tasks and makes a last recommendation that actors heed the fact that "[f]amily violence is not "outside" of the physical or virtual courtroom. Legal professionals must work diligently and compassionately to address manifestations of [family violence] within family law proceedings." (p. 21).

Evaluation of the Victoria Early Resolution-Case Management (ER-CM) Model: Final Evaluation Report – November 12, 2021 (Ministry of the Attorney General, Family Justice Services Division) – After instituting a streamlined family court system model and making recommendations, findings of the evaluation "are evidence of a more efficient court process which is expected to enable the Provincial Court to devote more time to cases that require judicial attention, such as urgent matters, situations where Consensual Dispute Resolution was not appropriate or situations where CDR was not successful in resolving the matter." (p. 69).

Recommendations include remaining with video or telephone attendance options, and extensive reconstituting of online forms for ease of user/counsel/staff. Questions remain as to if and how domestic violence court files could be streamlined into this model.

Presentation of this Report to NEVR monthly meeting March 23, 2022

Discussion included the following:

1. Some at conference said don't need integrated models, should just educate judges. Training should be an 'and' not an 'instead'.
2. Current system in BC not working as the process can revictimize people and cause trauma.
3. Need to co-parent can be abusive, support for a one judge system so not having to repeat the same information.
4. Video conferencing is necessary to avoid people sitting in same space as perpetrator.
5. Having adequate legal aid is a necessity and training of legal aid lawyers so that lawyers can understand the context, with adequate hours, so the lawyers can properly represent the family. Situation where perpetrators deliberately ask for paperwork that uses up legal aid hours. For child protection allowance is 25-40 hours which is nothing.
6. Domestic violence training in law school. Work on trauma informed lawyer/courts.
7. How can we present different cultural/religious needs in the courts? No cultural practice will override the law on equity and fairness.
8. Add recommendation that cases should be as speedy as possible – integrated courts can help with this. Have a suggested time limit for legal aid lawyers – in a timely manner.
9. There is fast-track courts for other matters – Ontario fast tracked those that could, and it reduced the number of cases – will add fast track.
10. Frustration as we have been working on these issues for decades (if not longer). The costs are emotional, costs on families, all of our time = all costs. The system is also creating violence – this is not just training.

Motion – NEVR shall take the position of arguing for an integrated court system, carried.

References

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