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Investigating Integrated Domestic Violence Courts: Lessons from New York

Jennifer Koshan

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Investigating Integrated Domestic Violence Courts: Lessons from New York

Abstract

Extensive law and policy reforms in the area of domestic violence have occurred in the last several decades in the United States and Canada, the latest being the development of specialized domestic violence (DV) courts. DV courts typically operate in the criminal realm, particularly in Canada. A recent innovation that is relatively unique in the United States is integrated domestic violence (IDV) courts, where criminal, civil, and family matters are heard together in a one judge/one family model. This article examines the literature on DV and IDV courts in Canada and the United States, and situates these reforms in the context of domestic violence reforms more broadly. Then it presents a case study of an IDV court in Manhattan, New York, including the results of interviews with litigant advocates, justice sector and institutional representatives, as well as observations from the courtroom. The author concludes that there are many potential benefits to IDV courts, along with some challenges that Canadian jurisdictions intending to implement such courts should address.

Keywords

Family violence--Law and legislation; Domestic relations courts; Canada

Investigating Integrated Domestic Violence Courts: Lessons from New York

JENNIFER KOSHAN*

Extensive law and policy reforms in the area of domestic violence have occurred in the last several decades in the United States and Canada, the latest being the development of specialized domestic violence (DV) courts. DV courts typically operate in the criminal realm, particularly in Canada. A recent innovation that is relatively unique in the United States is integrated domestic violence (IDV) courts, where criminal, civil, and family matters are heard together in a one judge/one family model. This article examines the literature on DV and IDV courts in Canada and the United States, and situates these reforms in the context of domestic violence reforms more broadly. Then it presents a case study of an IDV court in Manhattan, New York, including the results of interviews with litigant advocates, justice sector and institutional representatives, as well as observations from the courtroom. The author concludes that there are many potential benefits to IDV courts, along with some challenges that Canadian jurisdictions intending to implement such courts should address.

Au cours des dernières décennies, de vastes réformes ont modifié la loi et les politiques en matière de violence conjugale aux États-Unis et au Canada, la dernière ayant été la création de tribunaux spécialisés dans la violence conjugale. Ces tribunaux relèvent généralement du droit criminel, particulièrement au Canada. Une innovation récente relativement exclusive aux États-Unis est la création de tribunaux intégrés spécialisés dans la violence conjugale qui entendent à la fois des causes criminelles, civiles et relevant du droit de la famille selon le modèle une famille/un juge. Cet article examine la documentation relative aux tribunaux

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simples et intégrés spécialisés dans la violence conjugale tant au Canada qu'aux États-Unis et les positionne dans le plus large contexte des réformes sur la violence conjugale. Il procède ensuite à une étude de cas portant sur un tribunal intégré de Manhattan, à New York, spécialisé dans la violence conjugale, et présente le résultat d'entrevues avec des procureurs et des représentants du secteur judiciaire et des institutions, ainsi que des observations depuis la salle d'audience. L'auteur conclut que les tribunaux intégrés spécialisés dans la violence conjugale comportent de nombreux avantages potentiels, de même que certains défis que devront relever les autorités canadiennes désireuses d'instaurer de tels tribunaux.

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I. INTRODUCTION

DOMESTIC VIOLENCE¹ IS A PRESSING SOCIAL POLICY ISSUE in both Canada and the United States. In Canada, spousal violence accounts for more than half of all police-reported family violence and over 10% of all police-reported violent crime.² The actual rates of domestic violence are much higher: recent Canadian studies show that only 22–30% of spousal violence victims reported the abuse to

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1. My specific focus in this article is on intimate partner violence. In spite of its shortcomings, I will use the term “domestic violence” because my subject is state responses through “domestic violence” courts. I also use the terms “victim” and “offender,” which are not intended to suggest a lack of agency on the part of survivors of intimate partner violence, nor a pre-determination of guilt. These terms are those typically used in the literature on Domestic Violence courts and serve as a shorthand to avoid the range of different terms that apply in the criminal and civil justice systems in Canada and the United States. For a critical discussion of terminology, see Joanne C Minaker & Laureen Snider, “Husband Abuse: Equality with a Vengeance?” (2006) 485 Can J Corr 753.
 2. Statistics Canada, *Family Violence in Canada: A Statistical Profile* (Ottawa: Minister of Industry, 2009) at 24 [Statistics Canada, *Family Violence in Canada 2009*].

police.³ Over eight in ten victims of police-reported spousal violence in Canada are female.⁴ Between 2000 and 2009, spousal homicides accounted for 16% of all solved homicides in Canada and nearly half (47%) of all family-related homicides.⁵ In the United States, the overall rate of domestic violence in 2008 was 2.6 victimizations per 1,000 persons aged 12 or older.⁶ In 2007, 45% of female homicides in the United States were perpetrated by intimate partners.⁷ Over 200,000 people are victimized by domestic violence each year in New York State, and domestic violence cases make up 20% of the caseload of criminal

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3. Statistics Canada, *Family Violence in Canada: A Statistical Profile* (Ottawa: Minister of Industry, 2011) at 11 [Statistics Canada, *Family Violence in Canada 2011*] (finding that only 22% of spousal violence victims informed the police of the incident); Statistics Canada, *Measuring violence against women: Statistical trends* (Ottawa: Minister of Industry, 2013) at 10 [Statistics Canada, *Measuring violence against women 2013*] (stating that victimization data shows less than 30% of incidents came to the attention of police). See also Donna Cherniak et al, "Intimate Partner Violence Consensus Statement" (2005) 27:4 J Obstet Gynaecol Can 365 at 369-70 [Cherniak et al, "Intimate Partner Violence"].
 4. Statistics Canada, *Family Violence in Canada 2009*, *supra* note 2 at 24-25.
 5. Statistics Canada, *Family Violence in Canada 2011*, *supra* note 3 at 32. The rate of spousal homicides against women is about three to four times higher than the rate against men (*ibid* at 33). A recent Ontario report found that 80% of homicides in the domestic violence context involve female victims and 12% involve child victims. See Office of the Chief Coroner, *Domestic Violence Death Review Committee: 2011 Annual Report* (Ontario: Office of the Chief Coroner, 2012) at 5.
 6. Shannan Catalano et al, *Female Victims of Violence* (Washington, DC: Bureau of Justice Statistics, 2009) at 1. Broken down by gender, there were 4.3 victimizations per 1,000 females age 12 or older and 0.8 victimizations per 1,000 males age 12 or older (*ibid*). To compare these numbers to Canada, in 2007 the rate of police-reported spousal violence was 188 per 100,000 or 1.88 per 1,000 persons. Statistics Canada, *Family Violence in Canada 2009* at 24-25.
 7. *Report of the Special Rapporteur on violence against women, its causes, and consequences on her visit to the United States of America*, UNHRC, 17th Sess, Annex Agenda Item 6, UN Doc A/HRC/17/26/Add.5 (2011) at para 9 [UNHRC, *Report of the Special Rapporteur*]. The rate of spousal homicide against women was twice that against men (*ibid*).

courts.⁸ Underreporting of domestic violence is also a significant issue in the United States.⁹

In addition to straining judicial and other government resources, domestic violence results in a myriad of health, safety, and other social and economic consequences for its primary victims—women and children.¹⁰ Certain populations in both countries are especially vulnerable to the harms of domestic violence. Although there are some arguments to the contrary,¹¹ women make up the vast majority of victims of domestic violence, and some women—Indigenous women, racialized and immigrant women, women with disabilities, lesbians, young women,

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8. Robyn Mazur & Liberty Aldrich, “What Makes a Domestic Violence Court Work? Lessons from New York” (2003) 42:2 *Judges’ J* 5 at 6.
 9. UNHRC, *Report of the Special Rapporteur*, *supra* note 7 at para 13. In both Canada and the United States, underreporting is most acute amongst women who experience social and economic inequality, such as immigrant and racialized women, women with disabilities, and lesbians (*ibid* at paras 54-55, 59-61). See also Canadian Panel on Violence Against Women, *Changing the Landscape: Ending Violence—Achieving Equality* by Marthe Asselin Vaillancourt & Pat Freeman Marshall (Ottawa: Minister of Supply and Services, 1993) at 214; Dianne L Martin & Janet E Mosher, “Unkept Promises: Experiences of Immigrant Women with the Neo-Criminalization of Wife Abuse” (1995) 8:1 *CJWL* 3; Jennifer Koshan & Wanda Wieggers, “Theorizing Civil Domestic Violence Legislation in the Context of Restructuring: A Tale of Two Provinces” (2007) 19:1 *CJWL* 145 at 167-68.
 10. See *e.g.* UNHRC, *Report of the Special Rapporteur*, *supra* note 7 at para 18-21; Cherniak et al, “Intimate Partner Violence,” *supra* note 3 at 370-72; World Health Organization, *Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence* (Geneva: WHO, 2013) at 5-8.
 11. For an example in Canada, see Statistics Canada, *Family Violence in Canada 2011*, *supra* note 3 (reporting on the 2009 General Social Survey (GSS) results). Like the 1999 and 2004 surveys before it, the 2009 GSS documents are similar in self-reported rates of domestic violence amongst female and male respondents. However, the methodology of the GSS has been critiqued. See *e.g.* Walter S DeKeseredy & Molly Dragiewicz, *Shifting Public Policy Direction: Gender-Focused Versus Bi-Directional Intimate Partner Violence* (Queen’s Printer for Ontario, 2009). The results contradict many other studies showing women to be the overwhelming victims of domestic violence. See *e.g.* Statistics Canada, *Family Violence in Canada 2009*, *supra* note 2 at 25; Statistics Canada, *Measuring violence against women 2013*, *supra* note 3 at 8 (finding that rates of intimate partner violence were almost four times higher for women than men). The GSS itself found that females are more likely to suffer multiple incidents, suffer more serious forms of domestic violence, and sustain injuries. See Statistics Canada, *Family Violence in Canada 2011*, *supra* note 3 at 9-10, 13. For examples from the United States, see Emily J Sack, “Battered Women and the State: The Struggle for the Future of Domestic Violence Policy” [2004] *Wis L Rev* 1657 at 1711-13 [Sack, “Battered Women and the State”]. Sack discusses the debate about the gendered nature of domestic violence. In 2008, the rate of intimate partner victimization for women in the United States was over five times the equivalent for men. UNHRC, *Report of the Special Rapporteur*, *supra* note 7 at para 8, citing Catalano et al, *supra* note 6.

and poor women—face particular risks.¹² Domestic violence has been recognized as an urgent women’s human rights issue, both domestically and internationally.¹³

In recognition of the harms of domestic violence and the problems with traditional legal approaches to this social problem, there have been extensive legislative, administrative, and judicial reforms since the 1970s and 1980s in the United States and Canada. These reforms followed upon calls by women’s groups, shelters, and anti-violence activists to treat domestic violence seriously,¹⁴ and by justice system personnel to develop strategies for dealing with the particular challenges of domestic violence cases.¹⁵ Most recently, specialized domestic violence courts (“DV courts”) have been established in Canada and the United States in response to the challenges presented by domestic violence cases.¹⁶ The

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12. For statistics in Canada, see Statistics Canada, *Family Violence in Canada 2011*, *supra* note 3 at 11; Statistics Canada, *Measuring violence against women 2013*, *supra* note 3 at 6. See also Canadian Panel on Violence Against Women, *supra* note 9 at 59. In the United States, see UNHRC, *Report of the Special Rapporteur*, *supra* note 7 at paras 50-52, 56, 62.
 13. See *e.g. ibid*; Canadian Panel on Violence Against Women, *supra* note 9 at 59; *Declaration on the Elimination of Violence Against Women*, UNGA, 1993, 48th Sess, 85th Plen Mtg, A/RES/48/104 (1993); UNCEDAW, 11th Sess General Recommendation No 19 (1992) (“Violence Against Women”); World Health Organization, *supra* note 10 at 4; UN Secretary-General, *UNiTE to End Violence against Women*, on-line: <<http://endviolence.un.org/>>.
 14. In the United States, see *e.g.* Samantha Moore, *Two Decades of Specialized Domestic Violence Courts: A Review of the Literature* (Centre for Court Innovation, 2009) at 1; Donna Coker, “Crime Control and Feminist Law Reform in Domestic Violence Law: A Critical Review” (2001) 4:2 *Buff Crim L Rev* 801 at 803; Deborah Epstein, “Effective Intervention in Domestic Violence Cases: Rethinking the Roles of Prosecutors, Judges and the Court System” (1999) 11:1 *Yale JL & Feminism* 3; Sack, “Battered Women and the State,” *supra* note 11; Elizabeth Schneider, *Battered Women and Feminist Lawmaking* (New Haven: Yale University Press, 2000) at 3-8. In Canada, see *e.g.* Dawn H Currie, “Battered Women and the State: From the Failure of Theory to a Theory of Failure” (1990) 1:2 *J Hum Just* 77; Frances Salvaggio, “K-Court: The Feminist Pursuit of an Interdisciplinary Approach to Domestic Violence” (2002) 8:1 *Appeal* 6 at 8.
 15. In the United States, see Mazur & Aldrich, *supra* note 8 at 5-6. In Canada, see Leslie M Tutty, Jane Ursel & Janice Lemaistre, “The Verdict on Specialized Justice Responses to Domestic Violence,” in Jane Ursel, Leslie M Tutty & Janice Lemaistre, eds, *What’s Law Got To Do with It? The Law, Specialized Courts and Domestic Violence in Canada* (Toronto: Cormorant Books, 2008) 272 at 275 [Tutty, Ursel & Lemaistre, “Verdict”]. Both sets of authors specifically refer to the role of judges and other justice personnel in the development of DV courts.
 16. For an overview, see Jane Ursel, Leslie M Tutty & Janice Lemaistre, eds, *What’s Law Got To Do with It? The Law, Specialized Courts and Domestic Violence in Canada* (Toronto: Cormorant Books, 2008) (which contains essays on a number of Canadian DV courts); Melissa Labriola et al, *A National Portrait of Domestic Violence Courts* (Center for Court Innovation, 2009) (providing an overview and analysis of DV courts in the United States).

latest innovation, one which is still relatively unique to the United States, is integrated domestic violence courts (“IDV courts”), where criminal matters are heard alongside family and civil matters in a one judge/one family model.¹⁷

Using Manhattan’s IDV court as a case study, this article explores the benefits and challenges of IDV courts with a view to whether they should be considered for adoption in Canada. In particular, it examines whether IDV courts can improve upon the traditional Canadian approach of dealing with criminal, civil, and family matters separately. New York is an apt jurisdiction for a case study given its large number of IDV courts, the fact that it is “considered a leader in the integrated court movement,”¹⁸ and the availability of evaluations and literature on IDV courts in New York.¹⁹ Although an IDV court commenced operations in Toronto in the summer of 2011, there has been little opportunity to observe or evaluate its operations to date.²⁰

The article proceeds as follows. In Part II, I analyze relevant literature on domestic violence law reforms in Canada and the United States, including

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17. See *e.g. ibid* at 5.
 18. Elizabeth L MacDowell, “When Courts Collide: Integrated Domestic Violence Courts and Court Pluralism” (2011) 20:2 *Tex J Women & L* 95 at 97, n 1.
 19. A number of evaluations were released by the Center for Court Innovation in July 2012. See Sarah Picard-Fritsche, *Litigant Perspectives in an Integrated Domestic Violence Court* (Center for Court Innovation, 2011) [Picard-Fritsche, *Litigant Perspectives*]; Shani Katz & Michael Rempel, *The Impact of Integrated Domestic Violence Courts on Case Outcomes: Results for Nine New York State Courts* (Center for Court Innovation, 2011); Amanda B Cissner, Sarah Picard-Fritsche & Nora K Puffet, *The Erie County Integrated Domestic Violence Court: Policies, Practices, and Impacts* (Center for Court Innovation, 2011) [Cissner, Picard-Fritsche & Puffet, *Erie County*]; Amanda B Cissner, Sarah Picard-Fritsche & Nora K Puffet, *The Suffolk County Integrated Domestic Violence Court: Policies, Practices, and Impacts* (Center for Court Innovation, 2011) [Cissner, Picard-Fritsche & Puffet, *Suffolk County*]. See also Francesca Levy, Tim Ross & Pamela Guthrie, *Enhancing Safety and Justice for Victims of Domestic Violence: Voices of Women in the Queen’s Integrated Domestic Violence Court* (New York, NY: Vera Institute of Justice, 2008) at 11. This research was conducted at the request of the Center for Court Innovation. The Center for Court Innovation is a public/private partnership between the New York State Unified Court System and the Fund for the City of New York, and it “functions as the court system’s independent research and development arm, creating demonstration projects ... such as community courts, drug courts, domestic violence courts, and mental health courts.” See online: Center for Court Innovation, <<http://www.courtinnovation.org/who-we-are>>.
 20. See Ontario Court of Justice, “Integrated Domestic Violence Courts: Overview,” online: <<http://www.ontariocourts.ca/ocj/integrated-domestic-violence-court/overview/>> [Ontario Court of Justice, “Overview”]. An evaluation of the Toronto IDV court is in progress by Nicholas Bala, Rachel Birnbaum, and Peter Jaffe, funded by the Women’s Domestic Violence Directorate, Department of Justice. This court is further discussed in Part IV, below.

literature on DV and IDV courts to situate my case study. Part II also establishes the problems presented by the traditional approach to dealing with domestic violence cases in multiple forums and the need for examining alternative models. In Part III, I discuss my criteria for assessing the utility of IDV courts as an alternative model, including access to justice, avoiding unintended consequences, and systemic impacts. I then present the results of courtroom observations and interviews I conducted in Manhattan with IDV court personnel, advocates for victims, offenders, and children, and other key stakeholders to explore the benefits and challenges of the New York IDV court model from the perspective of those involved in its operations. Part III also compares these observations to the outcomes of recent IDV court evaluations in New York State. In Part IV, I discuss how New York's IDV court model could respond to some of the problems associated with the separate criminal, civil, and family approaches to domestic violence in Canada, in addition to noting some challenges that should be addressed by Canadian jurisdictions seeking to implement IDV courts and some areas for future research.

II. LEGAL RESPONSES TO DOMESTIC VIOLENCE: A REVIEW OF THE LITERATURE

A. THE 1970S AND 1980S: CRIMINAL, CIVIL, AND FAMILY LAW REFORMS

It took some time for domestic violence to be recognized as a criminal matter, and the enforcement of the criminal law continued to be lackluster well into the 20th century.²¹ In the 1970s and 1980s, women's groups in Canada and the United States lobbied for domestic violence to be treated seriously with some success. Legal responses to the traditional deferential approach to domestic violence have taken place in the criminal, civil, and family law realms. Alongside these legal reforms, shelters, battered women's services, and treatment programs for batterers have also been developed.²²

21. For a discussion of the historical approach to domestic violence, see Betsy Tsai, "The Trend Toward Specialized Domestic Violence Courts: Improvements on an Effective Innovation" (2000) 68:4 *Fordham L. Rev.* 1285 at 1288-90; Epstein, *supra* note 14 at 9-11.

22. As noted by the UNHRC report, the *Violence Against Women Act of 1994, as revised*, provided new federal funding in the United States for, amongst other things, programs and services in the area of violence against women. UNHRC, *Report of the Special Rapporteur, supra* note 7 at para 67. For a discussion of funding in this area in Canada, see Marina Morrow, Olena Hankivsky & Colleen Varcoe, "Women and Violence: The Effects of Dismantling the Welfare State" (2004) 24:3 *Crit Soc Pol'y* 358; Koshan & Wieggers, *supra* note 9 at 151-52.

In the criminal realm, one of the early reforms in both countries was the governments' adoption of mandatory arrest, charging, and prosecution laws and policies.²³ Specialized police, prosecution, and probation units were often developed alongside these laws and policies.²⁴ In the civil realm, many jurisdictions enacted legislation providing for civil protection orders in domestic violence cases.²⁵ Both countries have also seen the use of tort law remedies by victims of domestic violence,²⁶ as well as rights-based claims seeking to hold government actors to account for their responses (or lack thereof) to domestic and other forms of gender-based violence.²⁷ Governments have instituted other civil

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23. In Canada, all provinces and territories adopted mandatory charging and prosecution policies in the 1980s. See Trevor Brown, *Charging and Prosecution Policies in Cases of Spousal Assault: A Synthesis of Research, Academic, and Judicial Responses* (Ottawa: Department of Justice Canada, 2000). In the United States, these reforms occurred during the same time period. Mandatory arrest was generally achieved through legislation and no-drop prosecution as a matter of policy. See Sack, "Battered Women and the State," *supra* note 11 at 1668-74.
24. See *ibid* at 1673; Tsai, *supra* note 21 at 1291; Leslie Tutty, Jane Ursel & Fiona Douglas, "Specialized Domestic Violence Courts: A Comparison of Models" in Ursel, Tutty & Lemaistre, eds, *What's Law Got To Do With It?*, *supra* note 15 at 75 [Tutty, Ursel & Douglas, "A Comparison of Models"]. Criminal law developments regarding domestic violence also include reforms to the laws of bail, evidence, and sentencing.
25. In Canada, see e.g. *Saskatchewan's Victims of Domestic Violence Act*, SS 1994, c V-6.02. This is Canada's first civil protection legislation, which provides for emergency and longer-term protection orders. Similar legislation now exists in most Canadian provinces and territories. In the United States the New York's *Family Court Act* and *Domestic Relations Law* make provisions for temporary and final protection orders. The federal *Violence Against Women Act* also deals with some aspects of protection orders. See Epstein, *supra* note 14 at 12; Julie Goldscheid, "The Civil Rights Remedy of the 1994 Violence Against Women Act: Struck Down but Not Ruled Out" (2005) 39:1 Fam LQ 157.
26. In Canada, see e.g. *Mooney v British Columbia (Attorney General)*, 2001 BCSC 419, aff'd 2004 BCCA 402 (Donald, JA dissenting). In the *Mooney* case, leave to appeal was dismissed. See [2004] SCCA No 428. See also Elizabeth Sheehy, "Causation, Common Sense, and the Common Law: Replacing Unexamined Assumptions with What We Know About Male Violence Against Women, or, from *Jane Doe to Bonnie Mooney*" (2006) 17:1 CJWL 97. For an overview of tort claims in the United States, see Jennifer Wriggins, "Domestic Violence Torts" (2001) 75 S Cal L Rev 121.
27. In Canada, see e.g. *Jane Doe v Metropolitan Toronto (Municipality) Commissioners of Police* (1998), 74 OR (2d) 225, 160 DLR (4th) 697 (Div Ct), leave to appeal to Ont CA refused, (1991) 1 OR (3d) 416 (CA) (a sexual assault case). In the United States, see e.g. *Castle Rock v Gonzales*, 545 US 748, 125 S Ct 2796 (2005); *Jessica Lenahan (Gonzales) et al v United States* (2011), Inter-Am Comm HR, No 80/11, Annual Report of the Inter-American Commission on Human Rights 2011, OEA/Ser.L/V/II. Doc. 69. Human rights remedies against private actors (for example, employers and landlords) are also an option. See Julie Goldscheid, "Advancing Equality In Domestic Violence Law Reform" (2003) 11:2 J Gender Soc Pol'y & Law 417 at 424-25.

reforms in the area of family law, particularly in relation to custody, visitation, and access where there has been domestic violence.²⁸ States have also revised child protection legislation to include exposure to domestic violence as grounds for state intervention.²⁹

Feminist scholars and those advocating for battered women have identified several problems with this round of responses to domestic violence.³⁰ One strand of critique relates to the focus on criminal reforms rather than on more structural reforms, and decries the appropriation of women's law reform efforts by the state to implement a law and order agenda.³¹ Other critiques relate to the ways in which these reforms have been implemented and to inconclusive evidence on whether they are working as intended. It is important to note these concerns at some length so that unintended consequences can inform future legal reforms in the domestic violence context, including those related to DV and IDV courts.

One concern is that there is conflicting evidence about whether mandatory arrest, charging, and prosecution policies are effective in preventing domestic violence or may, in some circumstances, result in increased risks to victims, particularly those who are racialized and poor.³² Further, police bound by zero tolerance laws or policies have sometimes responded by arresting and laying charges against women who were trying to defend themselves or whose partners

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28. In Canada, see Peter G Jaffe, Claire V Crooks & Nick Bala, "Domestic Violence and Child Custody Disputes: The Need for a New Framework for the Family Court" in Ursel, Tutty & Lemaistre, eds, *What's Law Got to Do With It?*, *supra* note 15, 254 at 256. In the United States, see e.g. Leigh Goodmark, "Law is the Answer? Do We Know That for Sure? Questioning the Efficacy of Legal Interventions for Battered Women" (2004) 23:1 St Louis U Pub L Rev 7 at 11-13; MacDowell, *supra* note 18 at 113-14, accompanying notes.
29. See e.g. Kendra Nixon et al, "Do Good Intentions Beget Good Policy? A Review of Child Protection Policies to Address Intimate Partner Violence" (2007) 29:12 Child & Youth Services Rev 1469; Goodmark, *supra* note 28.
30. I focus here on critiques by feminist scholars and the battered women's movement.
31. In Canada, see Elizabeth Comack & Gillian Balfour, *The Power to Criminalize: Violence, Inequality and the Law* (Halifax, NS: Fernwood, 2004) at 171; Currie, *supra* note 14; Martin & Mosher, *supra* note 9; Laureen Snider, "Making Change in Neo-Liberal Times" in Gillian Balfour and Elizabeth Comack, eds, *Criminalizing Women* (Halifax, NS: Fernwood, 2006) at 323. In the United States, see e.g. Coker, *supra* note 14; Holly Maguigan, "Wading into Professor Schneider's 'Murky Middle Ground' Between Acceptance And Rejection Of Criminal Justice Responses To Domestic Violence" (2003) 11 J Gender Soc Pol'y & Law 427 at 430; Sack, "Battered Women and the State," *supra* note 11.
32. Most studies concern the United States. See e.g. Coker, *supra* note 14 at 814-20; Maguigan, *supra* note 31 at 434-43; Schneider, *supra* note 14 at 184-88; Evan Stark, "Reconsidering State Intervention in Domestic Violence Cases" (2006) 5:1 Soc Pol'y & Soc'y 149 at 151-53.

allege they were violent—the so-called “dual arrest” problem.³³ This may subject true victims of domestic violence to criminal, child custody and apprehension, and immigration consequences.³⁴ Police have also enforced zero tolerance laws and policies more aggressively against marginalized men and women, especially those who are racialized, Indigenous, and poor.³⁵ Victims have had little autonomy under this approach and may avoid calling the police altogether or face sanctions for failing to cooperate with the prosecution.³⁶ This has been a particular concern for women marginalized by race, Aboriginality, immigration and economic status, and sexual identity.³⁷

Similar problems of over-enforcement have occurred with respect to civil protection orders in the United States, with judges making mutual orders of protection that restrain the actions of victims as well as offenders.³⁸ In Canada, the reverse problem has been documented—namely the under-enforcement by police of civil protection orders and of criminal zero-tolerance laws and policies.³⁹ There have also been critiques of the reticence of family courts to take domestic violence into account in custody and access determinations in spite of legislative

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33. See *e.g.* Comack & Balfour, *supra* note 31 at 152, 170-71; Goodmark, *supra* note 28 at 23-24; Maguigan, *supra* note 31 at 442-43; Sack, “Battered Women and the State,” *supra* note 11 at 1680; Snider, *supra* note 31 at 334. Dual arrest refers to the practice whereby the police arrest or charge both the perpetrator and victim rather than decide who the primary aggressor was.
34. See *e.g.* Comack & Balfour, *supra* note 31 at 170-71; Coker, *supra* note 14 at 831-37; Maguigan, *supra* note 31 at 433. These consequences may result when victims engage (or choose not to engage) with the criminal and civil justice systems, even if they are not arrested and charged. See Koshan & Wieggers, *supra* note 9 at 168; Goodmark, *supra* note 28 at 21-22, 25-28.
35. See *e.g.* Coker, *supra* note 14 at 807-11; Sack, “Battered Women and the State,” *supra* note 11 at 1677; Snider, *supra* note 31 at 334.
36. See *e.g.* Coker, *supra* note 14 at 805-807; Goodmark, *supra* note 28 at 24; Snider, *supra* note 31.
37. See *e.g.* Coker, *supra* note 14; Kimberlé Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color” (1993) 43:6 *Stan L Rev* 1241 at 1258-60; Epstein, *supra* note 14 at 17-18; Goodmark, *supra* note 28 at 36-39; Koshan & Wieggers, *supra* note 9 at 167-68; Martin & Mosher, *supra* note 9 at 21, 27; Sack, “Battered Women and the State,” *supra* note 11 at 1679; Snider, *supra* note 31.
38. See *e.g.* Goodmark, *supra* note 28 at 24; Sack, “Battered Women and the State,” *supra* note 11 at 1682-84 (both noting that mutual protection orders may be made by judges of their own motion). Mutual protection orders have not been a major issue in Canada. See Koshan & Wieggers, *supra* note 9 at 169.
39. See *e.g.* Comack & Balfour, *supra* note 31 at 153 (noting that this was a particular problem on First Nations reserves in Manitoba); Koshan & Wieggers, *supra* note 9 at 168, 173. In the US context, see Goodmark, *supra* note 28 at 35.

reforms requiring them to do so in some jurisdictions.⁴⁰ On the other hand, child protection workers and courts may enforce neglect laws in adverse ways against women who do not leave their abusive partners.⁴¹ Offenders (or their lawyers) may also use the criminal, civil, and family justice systems in ways that perpetuate abuse.⁴²

At the level of the courts, mandatory charging and prosecution policies often created increased caseloads without governments providing the resources to handle the volume.⁴³ Further, judges generally continued to approach domestic violence cases in the same way they traditionally had, as this wave of reforms was not aimed at their level.⁴⁴ As noted by one author, “courts have been the last of the justice system components to engage in institutional reform to improve the justice system’s impact on domestic violence.”⁴⁵

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40. See *e.g.* Jaffe, Crooks & Bala, *supra* note 28 at 259-60; Martha Shaffer & Nicholas Bala, “Wife Abuse, Child Custody and Access in Canada” (2003) 3 J Emotional Abuse 253; Julia Weber, “Domestic Violence Courts: Components and Considerations” (2000) 2 J Center for Families, Child & Cts 23 at 26.
41. See *e.g.* Allison Cleveland, “Specialization Has the Potential to Lead to Uneven Justice: Domestic Violence Cases in the Juvenile and Domestic Violence Courts” (2010) 6:1 The Modern American 17 at 17; Goodmark, *supra* note 28 at 21-22; Nixon et al, *supra* note 29.
42. See *e.g.* Comack & Balfour, *supra* note 31 at 162-69; Goodmark, *supra* note 28 at 24, 33-34; Peter Jaffe, Claire Crookes & Nick Bala, *Making Appropriate Parenting Arrangements in Family Violence Cases: Applying the Literature to Identify Promising Practices* (Justice Canada, 2005), cited in Andrea Vollens, *Court-Related Abuse and Harassment* (Vancouver, BC: YWCA, 2010) at 3; MacDowell, *supra* note 18 at 119; Sack, “Battered Women and the State,” *supra* note 11 at 1731. Use of the justice system to perpetuate abuse is also an issue in sexual assault cases. See Elaine Craig, “The Ethical Obligations of Defence Counsel in Sexual Assault Cases” (2014) 51:2 Osgoode Hall LJ 427.
43. See *e.g.* Moore, *supra* note 14 at 1; Susan Keilitz, *Specialization of Domestic Violence Case Management in Courts: A National Survey* (National Institute of Justice, 2004) at 9-3; Tutty, Ursel & Douglas, “A Comparison of Models,” *supra* note 24.
44. See Tsai, *supra* note 21 at 1290; Robert V Wolf, Liberty Aldrich & Samantha Moore, “Planning a Domestic Violence Court: The New York State Experience” (2004) Center for Court Innovation at 2-3.
45. Keilitz, *supra* note 43 at 9-3. See also Epstein, *supra* note 14 at 13; Anat Maytal, “Specialized Domestic Violence Courts: Are They Worth the Trouble in Massachusetts?” (2008) 18 BU Pub Int LJ 197 at 207.

B. THE 1990S: SPECIALIZED DV COURTS

Specialized DV courts began to develop in the 1990s, and by the late 2000s there were over 200 DV courts in the United States and dozens in Canada.⁴⁶ There is a broad diversity of courts in terms of their context (urban or rural communities), jurisdiction (civil or criminal, felony or misdemeanour charges, and first appearance or trial court), scope (intimate partner violence or domestic and family violence more broadly), and approach (diversion of low risk offenders or vigorous prosecution).⁴⁷ While civil protection order courts are most common in the United States⁴⁸ and there have been some innovations in family courts in Canada,⁴⁹ specialized DV courts in Canada are almost exclusively criminal law courts. In light of that reality and given that most of the literature uses the terminology “DV courts” to refer to criminal DV courts, I will do the same here.

Although there is diversity in the origins, structures, and operations of DV courts, they typically consist of dedicated courtrooms where criminal matters related to domestic violence are dealt with on a separate calendar or docket from other criminal cases by specially trained judges, prosecutors, probation officers, and other staff.⁵⁰ In the United States, DV courts are usually staffed with

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46. Center for Court Innovation, “A National Compendium of Domestic Violence Courts” (2009) [Center for Court Innovation, “A National Compendium”]; Moore, *supra* note 14 at 1; Tutty, Ursel & Douglas, “A Comparison of Models,” *supra* note 24.
47. Keilitz, *supra* note 43 at 9-3; Moore, *supra* note 14 at 2; Tutty, Ursel & Lemaistre, “Verdict,” *supra* note 15 at 275, 278. One study notes that this diversity is unique to DV courts when compared to other problem-solving courts, which “have a more clearly delineated structure and widely shared set of core goals, policies and practices.” See Labriola et al, *supra* note 16 at ix. See also Emily Sack, *Creating A Domestic Violence Court: Guidelines and Best Practices* (San Francisco: Family Violence Prevention Fund, 2002) at 24-29 [Sack, *Creating A Domestic Violence Court*] (discussing the various models of DV courts in the United States).
48. Donald E Shelton, “The Current State of Domestic Violence Courts in the United States, 2007” (National Center for State Courts White Paper Series, 2007) at 12, online: <<http://ssrn.com/abstract=1163228>>. Specialized civil protection order courts do not exist in Canada, where applications for such orders are typically made in front of Magistrates, Justices of the Peace or in Family or Superior Courts. See Karen Busby, Jennifer Koshan & Wanda Wieggers, “Civil Domestic Violence Legislation in the Prairie Provinces: A Comparative Legal Analysis,” in Ursel, Tutty & Lemaistre, eds, *What’s Law Got To Do with It?*, *supra* note 15 at 207.
49. See Nicholas Bala, Rachel Birnbaum & Justice Donna Martinson, “One Judge for One Family: Differentiated Case Management for Families in Continuing Conflict” (2010) 26:2 Can J Fam L 395 at 405 (discussing family justice reforms in several jurisdictions—although relating to high and continuing conflict cases generally and not necessarily cases involving domestic violence).
50. Moore, *supra* note 14 at 1; Labriola et al, *supra* note 16 at 1-3; Tsai, *supra* note 21 at 1300.

dedicated judges, while in Canada, DV courts are more likely to have rotating judges.⁵¹ Most DV courts have screening processes that allow appropriate cases to be identified, and many attempt to intervene in domestic violence matters as early as possible.⁵² Victim advocates seek to promote victim participation in the DV court process by providing information, services, and referrals, while defendants' compliance with orders of protection, treatment programs, and other court-ordered conditions are monitored. DV courts also may involve ongoing collaborations and coordination between court personnel and community organizations.⁵³

Various explanations have been put forward for the development of DV courts in Canada and the United States. First, it is argued that the earlier wave of domestic violence reforms in the 1970s and 1980s led to a marked increase in the volume of cases and a resultant burden on the criminal courts, so that the rationale for specialized DV courts was largely one of efficiency.⁵⁴ Many sources note the involvement of particular judges (or groups of judges) and other justice personnel in the development of DV courts, working alongside other justice system and community actors.⁵⁵ The development of DV courts is also said to have occurred in response to the unique and complex nature of domestic violence cases and the difficulties in the ways they were traditionally handled by the courts

51. See Labriola et al, *supra* note 16 at 1; Tutty, Ursel & Douglas, "A Comparison of Models," *supra* note 24 at 75-77.

52. See Weber, *supra* note 40 at 24 (describing screening processes); Tutty, Ursel & Douglas, "A Comparison of Models," *supra* note 24 at 76 (noting the focus on early intervention, particularly for low-risk offenders).

53. Labriola et al, *supra* note 16 at 2-3, 7; Mazur & Aldrich, *supra* note 8 at 9-10.

54. See Moore, *supra* note 14 at 1; Keilitz, *supra* note 43 at 9-3. This rationale is specifically mentioned in relation to New York's plan for DV courts. See Tsai, *supra* note 21 at 1300. See also Catherine Shaffer, "Therapeutic Domestic Violence Courts: An Efficient Approach to Adjudication?" (2004) 27:4 Seattle UL Rev 981 at 993-97 (undertaking a detailed cost-benefit analysis of DV courts).

55. In the United States, see *e.g.* Mazur & Aldrich, *supra* note 8 at 5-6 (noting the role of "system insiders" and DV advocates in the development of DV courts). See also Wolf, Aldrich & Moore, *supra* note 44 at 3 (noting the role of a particular judge, Judith Kaye, in the development of New York's specialized DV courts). In Canada, see Tutty, Ursel and Lemaistre, "Verdict," *supra* note 15 at 275. The authors note the role of judges as "agents of change" in the area of specialized DV courts.

and other justice personnel.⁵⁶ Specialized DV courts soon came to be seen as part of the program of “problem solving” or “therapeutic” courts, which deal with complex issues such as addictions and mental health that wind up in the criminal arena.⁵⁷ According to one author, the situation of DV courts within the broader movement of problem-solving courts has helped to provide legitimacy to DV courts.⁵⁸

Arguments were also made against the development of specialized DV courts, largely in the United States. Some critics expressed concerns about problem-solving courts more generally and their departure from the traditional adversarial model of justice.⁵⁹ Others raised the issue that the involvement of judges in the planning and implementation of DV courts, as well as judicial training on domestic violence issues, might compromise judicial objectivity and neutrality.⁶⁰ Another concern was that a focus on criminal justice reforms and batterer treatment programs may draw resources away from services for victims

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56. Jane Ursel, Leslie M Tutty & Janice Lemaistre, “The Justice System Response to DV: Debates, Discussions and Dialogues,” in Ursel, Tutty & Lemaistre, eds, *What’s Law Got To Do with It?*, *supra* note 15 at 12; Keilitz, *supra* note 43 at 9-3; Tsai, *supra* note 21 at 1296. Some of the problems identified with respect to domestic violence cases include low reporting rates, high rates of charge withdrawal, reluctant victim-witnesses, and high rates of recidivism. See Darcie Bennett, *Imagining Courts that Work for Women Survivors of Violence* (Vancouver, BC: Pivot, 2012) at 11.
57. Moore, *supra* note 14 at 1; Wolf, Aldrich & Moore, *supra* note 44 at 5; Tsai, *supra* note 21 at 1294-96; Judith S Kaye and Susan K Knipps, “Judicial Responses to Domestic Violence: The Case for a Problem Solving Approach” (2000) 27 W St U L Rev 1.
58. Moore, *supra* note 14.
59. For a discussion of these criticisms, see Shelton, *supra* note 48 at 7-8. In Canada, see e.g. Leslie Tutty et al, *Evaluation of the Calgary Specialized Domestic Violence Trial Court & Monitoring the First Appearance Court: Final Report* (Calgary: RESOLVE Alberta, 2011) at 62 [Tutty et al, *Calgary DV Court Evaluation*]; Bennett, *supra* note 56 at 12 (noting the opposition of defence counsel).
60. Bennett, *supra* note 56 at 12; Shelton, *supra* note 48 at 8; Keilitz, *supra* note 43 at 9-4. On the other hand, concerns have also been noted about inappropriate judicial attitudes to domestic violence in spite of training, and about training being “woefully lacking.” See Lynn S Levey, Martha Wade Steketee & Susan L Keilitz, *Lessons learned in implementing an integrated domestic violence court: The District of Columbia experience* (Williamsburg, VA: National Center for State Courts, 2001) at 8-11, 18. See also Rosemary Hunter, “Narratives of Domestic Violence” (2006) 28:4 Sydney L Rev 733 (whose research found that traditional attitudes towards domestic violence were fairly entrenched, even in specialized forums in Australia).

and children, and may intensify some of the problems with the criminal justice approach to domestic violence, such as victim disempowerment.⁶¹

Today, there appears to be broad consensus that the primary goals of DV courts are victim safety and offender accountability.⁶² Other related goals of DV courts discussed in the literature include a coordinated and collaborative response to domestic violence, informed and consistent decision-making, provision of victim services, and efficiency.⁶³ Some authors have suggested that various goals of DV courts may be contradictory.⁶⁴ In particular, goals relating to efficiency may conflict with goals that focus on substantive justice concerns, although one study found that justice system personnel were able to integrate these goals in practice.⁶⁵ There is also some debate in the literature about the rehabilitative aspect of DV courts, with some critics contending that, unlike other problem solving courts, rehabilitation should not be a goal of DV courts because of conflicting evidence on whether batterer treatment programs actually work.⁶⁶ Others argue that reducing recidivism and providing deterrence (both individual and general) should be seen as valid goals of DV courts.⁶⁷ Some authors emphasize that in addition to their impact on the individual parties, DV courts also have

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61. See Bennett, *supra* note 56 at 13; Billie Lee Dunford-Jackson et al., “Unified Family Courts: How Will They Serve Victims of Domestic Violence” (1998) 32:1 Fam LQ 131 at 145; Carolyn Turgeon, *Bridging Theory and Practice: A Roundtable on Court Responses to Domestic Violence* (Center for Court Innovation, 2008) at 10; Tsai, *supra* note 21 at 1314; Ursel, Tutty & Lemaistre, *supra* note 56 at 12-13.
 62. See *e.g.* Kaye & Knipps, *supra* note 57 at 6-7; Keilitz, *supra* note 43 at 95-96; Richard R Peterson, *Manhattan’s Specialized Domestic Violence Court: Research Brief No. 7* (New York: New York City Criminal Justice Agency, 2004); Labriola et al, *supra* note 16 at iv; Turgeon, *supra* note 61 at 353; Tutty, Ursel & Lemaistre, “Verdict,” *supra* note 15 at 277, 278; Weber, *supra* note 40 at 26; Wolf, Aldrich & Moore, *supra* note 44 at 1.
 63. Keilitz, *supra* note 43 at 93-94; Moore, *supra* note 14 at 3; Labriola et al, *supra* note 16 at iv, vi.
 64. Rekha Mirchandani, “What’s So Special about Specialized Courts? The State and Social Change in Salt Lake City’s Domestic Violence Court” (2005) 39:2 Law & Soc’y Rev 379 at 380, 382-384. See also Tsai, *supra* note 21 at 1310-12.
 65. Mirchandani, *supra* note 64 at 405. See also Deborah M Weissman, “Gender-Based Violence as Judicial Anomaly: Between ‘The Truly National and the Truly Local’” (2001) 42:5 BCL Rev 1081 at 1126-28.
 66. See *e.g.* Labriola, *supra* note 16 at vi; Wolf, Aldrich & Moore, *supra* note 44 at 11. See also Shelton, *supra* note 48 at 8. Shelton argues that unlike other problem-solving courts, DV courts tend to focus on victims’ issues (*e.g.*, safety) more than on the rehabilitation of offenders.
 67. See Shelton, *supra* note 48 at 10-11; Dunford-Jackson et al, *supra* note 61 at 137; Moore, *supra* note 14 at 7 (noting that recidivism may be linked to both treatment and deterrence).

(or should aim to have) societal and systemic impacts on perceptions and norms surrounding domestic violence.⁶⁸

C. CRITICAL OBSERVATIONS ON DV COURTS

There is limited critical literature on DV courts to date, particularly in Canada.⁶⁹ My own observations from this review of the literature on DV courts are as follows. First, although victim safety and offender accountability are widely stated as the goals of DV courts, it is often unclear how these goals are defined and how they are to be achieved or measured. The Center for Court Innovation does provide some elaboration, suggesting that accountability comes from offender compliance with court orders such as those mandating treatment and that victim safety arises from the “prompt and effective provision of services.”⁷⁰ However, there is little attention to how the unresolved debate about whether batterer treatment works⁷¹ may undermine the goals of accountability and safety. The argument that the focus of DV courts on batterer treatment programs may take away from resources that would otherwise be allocated to victims⁷² also presents a possible challenge to the stated goals of offender accountability and victim safety.

A related concern is that the literature is silent on the question of how DV courts relate to issues of state accountability. For example, there is no discussion of the role of DV courts in responding to the problems with the implementation of zero tolerance laws and policies that arise from the actions of police and

68. See Dunford-Jackson et al, *supra* note 61; Salvaggio, *supra* note 14 at 16-17; Turgeon, *supra* note 61 at 367; Weber, *supra* note 40 at 32; Weissman, *supra* note 65 at 1142. The Dade County Domestic Violence Court in Florida is a good example of a court focused on the community’s role in combatting domestic violence, with judges required to participate in community programs. See Tsai, *supra* note 21 at 1303.

69. For DV court literature in the United States that includes critical perspectives, see *e.g.* Epstein, *supra* note 14; Mirchandani, *supra* note 64; Tsai, *supra* note 21; Turgeon, *supra* note 61; Weissman, *supra* note 65. In Canada, see Bennett, *supra* note 56 at 12-13.

70. See *Key Principles of Domestic Violence Court: Accountability*, online: Center for Court Innovation <<http://www.courtinnovation.org/research/key-principles-domestic-violence-court-accountability?url=research%2F7%2Farticle&mode=7&type=article>> [Center for Court Innovation, *Key Principles*]; *Spotlight on Victim Safety*, online: Center for Court Innovation <http://www.courtinnovation.org/research/spotlight-victim-safety?url=research%2F7%2Farticle&mode=7&type=article> [Center for Court Innovations, *Spotlight on Victim Safety*].

71. See Levy, Ross & Guthrie, *supra* note 19 at 8; Moore, *supra* note 14 at 7-8; Tsai, *supra* note 21 at 1312-14; Turgeon, *supra* note 61 at 347-48, 354; Tutty, Ursel & Douglas, “A Comparison of Models,” *supra* note 24 at 77-80.

72. Bennett, *supra* note 56 at 13. In contrast, see Ursel, Tutty & Lemaistre, *supra* note 56 at 13 (who argue that specialized courts might actually lead to expansion of victim services).

prosecutors, nor is there discussion on the over-enforcement of child protection laws against victims of domestic violence. A focus on offender accountability at the expense of state accountability runs the risk of privatizing the harms flowing from domestic violence.⁷³

Another observation is that the rights and interests of accused persons do not tend to have a very prominent place in the literature on DV courts. This problem has been identified in relation to specialized and problem-solving courts more broadly, with some literature in that context raising concerns about the ways in which a non-adversarial model may impact the rights of offenders negatively and place their lawyers in difficult positions when it comes to their roles as zealous advocates.⁷⁴ However, it is not typically raised as an issue in relation to DV courts specifically.⁷⁵ This should concern those advocating for the interests of battered women, as women may themselves be accused of domestic violence pursuant to zero tolerance policies and the manipulation of the system by actual offenders.⁷⁶ More broadly, it is important that any justice system response protects the rights of accused persons to due process and procedural fairness.

Relatedly, the concerns raised by commentators about the impact of the domestic violence reforms of the 1970s and 1980s on those who are racialized, poor, Indigenous, and members of the lesbian, gay, bisexual and transgender (“LGBT”) community are also largely absent from the literature on DV courts, especially the institutional literature.⁷⁷ Although some authors mention particular services that have been developed for members of marginalized groups who

73. For a discussion of concerns around privatization in the context of civil domestic violence legislation, see Koshan & Wiegers, *supra* note 9.

74. See Tamar M Meekins, “Specialized Justice: The Over-Emergence of Specialty Courts and the Threat of a New Criminal Defense Paradigm” (2006) 40:1 Suffolk UL Rev 1 at 8, 14; Mae C Quinn, “The Modern Problem-Solving Court Movement: Domination of Discourse and Untold Stories of Criminal Justice Reform” (2010) 31:1 Wash UJL & Pol’y 57 at 62, 64 (dealing specifically with drug courts). Lack of legal representation for offenders is also noted as a concern. See Meekins, *supra* note 74 at 23-24.

75. A few sources on DV courts do flag due process concerns as important. See *e.g.* Cleveland, *supra* note 41 at 18; Dunford-Jackson et al, *supra* note 61 at 135 (in the context of unified family courts dealing with domestic violence); Wolf, Aldrich & Moore, *supra* note 44 at 2.

76. On domestic violence victims who are themselves accused, see Avon Global Center for Women and Justice at Cornell Law School & The Women in Prison Project of the Correctional Association of New York, *From Protection to Punishment: Post-Conviction Barriers to Justice for Domestic Violence Survivors-Defendants in New York State* (New York: 2011).

77. I am referring here to articles by judges, evaluations by institutional organizations, etc. See also Vollens, who notes that “[t]he literature was largely silent on the effects of intersecting oppressions on court-related harassment and abuse” (*supra* note 42 at 19).

engage with DV courts, the needs and concerns of these groups are typically not discussed in terms of the rationales underlying the courts or their intended impacts. This is perhaps not surprising in light of the fact that, unlike the earlier wave of domestic violence reforms discussed above,⁷⁸ DV courts have been advocated largely by institutional actors rather than grassroots advocates for battered women.⁷⁹

Another critique is that the literature on DV courts tends to be insular in evaluating these courts in terms of their impact on the criminal justice response to domestic violence rather than as part of a broader justice system response.⁸⁰ There is some critical literature that raises potential problems with segregating domestic violence matters into specialized criminal courts, noting that these courts may have the effect of isolating and marginalizing the issues,⁸¹ with possible consequences on resources.⁸² Segregation may also serve to (re)privatize domestic violence disputes,⁸³ a problem noted above in relation to the lack of focus on state accountability. In addition, segregation into specialized courts may deprive non-specialized justice system personnel of education and training and deprive litigants in non-specialized forums of the benefits of this expertise.⁸⁴ On the other hand, some judges may be reluctant to be assigned to DV courts for philosophical or workload-related reasons, and may be reluctant to receive training on domestic violence issues.⁸⁵ As the next section will show, there are also

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78. However, the reforms of the 1970s and 1980s were not embraced by all battered women's activists, as noted in Part IIA.
79. Some authors note the role of women's and victims' groups in the establishment of DV courts. See *e.g.* Shelton, *supra* note 48 at 6, 21; Tutty, Ursel & Lemaistre, "Verdict," *supra* note 15 at 275. The vast majority of the literature, however, identifies the development of DV and IDV courts as driven by the judiciary, government and the legal profession. This is not to say that institutional actors cannot be feminists, however. See Mirchandani, *supra* note 64 at 396.
80. For an exception see Ursel, Tutty & Lemaistre, eds, *What's Law Got To Do With It?*, *supra* note 15, which includes essays assessing the criminal, civil, and family justice system responses to domestic violence in Canada.
81. Weissman, *supra* note 65 at 1128-29; MacDowell, *supra* note 18 at 114-15.
82. Bennett, *supra* note 56 at 8; Weber, *supra* note 40 at n 37, accompanying text.
83. Weissman, *supra* note 65 at 1116-17. Compare MacDowell, *supra* note 18 at 97-99, 102 (noting the important symbolic and systemic effects of criminal courts in domestic violence cases).
84. Weissman, *supra* note 65 at 1128-29; MacDowell, *supra* note 18 at 114-15. Even with specialized intake and screening processes to divert matters into DV courts, some cases may slip through the cracks and be litigated in regular courts (*ibid* at 114). Some domestic violence cases may also fail to meet the eligibility criteria for DV courts.
85. Cleveland, *supra* note 41 at 18-19; Maytal, *supra* note 45 at 223-25; Weissman, *supra* note 65 at 1113-14.

problems presented by the fragmented approach to criminal, family, and civil domestic violence issues, whereby different courts, operating as separate silos, hear different issues that criminal DV courts cannot resolve themselves.

D. PROBLEMS WITH THE FRAGMENTED APPROACH TO DOMESTIC VIOLENCE CASES

Domestic violence raises multiple, intersecting, and complex legal issues related to criminal responsibility, protection of victims and children, and family matters such as custody and access, support, property division, and child apprehension. Many of these issues, particularly in the family law realm, require ongoing engagement between the parties over time in light of changing circumstances and the need for enforcement, giving rise to the possibility of continuing conflict and litigation.⁸⁶ In both Canada and the United States, these issues have traditionally been dealt with in multiple forums: criminal, civil, and family courts, which may also have different levels, such as provincial and superior courts, and divisions, such as civil family courts.

Many problems arise from the fact that domestic violence victims, offenders, and their children must navigate multiple forums to address all of these issues. One difficulty is the lack of communication between civil, family, and criminal courts and among different divisions within these courts. For example, recent reports on domestic violence in British Columbia, Alberta, and Ontario found little information sharing between courts and with other justice system personnel, and a lack of accurate information obtained from parties about the existence of related proceedings and orders.⁸⁷ In both Canada and the United States, it is noted that these sorts of information gaps may lead to inconsistent

86. Liberty Aldrich and Judge Judy Harris Kluger, “New York’s One Judge-One Family Response to Family Violence” (2010) 61:4 Juv & Fam Ct J 77 at 79; Bala, Birnbaum & Martinson, *supra* note 49 at 401.

87. Donna Martinson, *Domestic Violence Program Development for Judges: April 2012 British Columbia Community Consultation Report* (National Judicial Institute, 2012) at 4-5, on-line: FREDA Centre for Research on Violence Against Women and Children <<http://fredacentre.com/wp-content/uploads/2012/10/The-Hon.-D.-Martinson-National-Judicial-Institute-April-2012-B.C.-Community-Consultations-on-Family-Violence-Report.pdf>>; Mary Ellen Turpel-Lafond, *Honouring Christian Lee – No Private Matter: Protecting Children Living with Domestic Violence* (Victoria: BC Representative for Children and Youth, 2009) at 3, 58-9; Tutty et al, *Calgary DV Court Evaluation*, *supra* note 59 at 71-72; Leslie Tutty, Jennifer Koshan, Deborah Jesso & Kendra Nixon, *Alberta’s Protection Against Family Violence Act: A Summative Evaluation* (Calgary: RESOLVE Alberta, 2005) at 56, 66; Office of the Chief Coroner, *Domestic Violence Death Review Committee, 2010 Annual Report* (Ontario: Office of the Chief Coroner, 2011) at 45.

and conflicting decisions and protective orders, causing confusion about rights and responsibilities that may affect the safety of victims and children.⁸⁸

Conflicting orders may also result from the different objectives of the various courts, ranging from the best interests of children (which may lead courts to maximize contact between parents and children) to protection of victims and children (which may favour limited contact).⁸⁹ Even within particular levels of courts, the fact that different judges may hear different matters between the parties can lead to inconsistent orders and difficulty in monitoring and enforcing them.⁹⁰

Another problem is that multiple proceedings typically result in increased costs to both the parties and the justice system, along with delays, particularly in civil and family matters when criminal proceedings are prioritized.⁹¹ Fragmentation of domestic violence issues also may allow perpetrators to engage in judge shopping and bring multiple applications in different courts to further harass and abuse victims, which further increases costs, stress for victims and children, and possible substantive injustice.⁹² Moving cases between judges and forums undermines a holistic approach to domestic violence issues and may not provide sufficient oversight over procedures that may be inappropriately used in domestic violence cases, such as mediation and other forms of alternative dispute resolution.⁹³ Victims and children may have to tell the same stories multiple

88. See *e.g.* Bennett, *supra* note 56 at 50; Juliana Dalley, “One Family, One Judge’: Towards a New Model for Access to Justice for Families Facing Violence in BC” (2013) 18:1 Appeal 3 at 3; Ontario, *Transforming our Communities: Report from the Domestic Violence Advisory Council for the Minister Responsible for Women’s Issues* (2009) at 79; Epstein, *supra* note 14 at 23-28; Katz & Rempel, *supra* note 19 at 1; Levy, Ross & Guthrie, *supra* note 19 at 7-8; Martinson, *supra* note 87 at 5; Tutty et al, *Calgary DV Court Evaluation*, *supra* note 59; *Integrated Domestic Violence Court Proposal: Comments from Members of the Violence Against Women* (Ontario, 2011) at 2, online: Ontario Association of Interval and Transition House Workers <<http://www.oaith.ca/assets/files/Publications/Family%20Law/IntegratedDVCourt-response.pdf>> [Members of the violence against women sector, *Comments*]; Hon Justice Geraldine Waldman, “The What and Why of the Proposed Integrated Domestic Violence Court” (2011) at 1, online: Family Lawyers Association, <http://www.flao.org/wp-content/uploads/2011/03/Integrated_Domestic_Violence.pdf>.

89. Cleveland, *supra* note 41 at 17; Martinson, *supra* note 87 at 5.

90. Bala, Birnbaum & Martinson, *supra* note 49 at 403-404.

91. *Ibid* at 398, 402; Martinson, *supra* note 87 at 5; Levy, Ross & Guthrie, *supra* note 19 at 7; Waldman, *supra* note 88 at 1.

92. For example, victims may concede matters such as child custody and access to avoid conflict. See Vollens, *supra* note 42 at 8, 25. See also Bala, Birnbaum & Martinson, *supra* note 49 at 397; Domestic Violence Advisory Council, *supra* note 88 at 75-76; Levy, Ross & Guthrie, *supra* note 19 at 8; Martinson, *supra* note 87 at 6; Waldman, *supra* note 88.

93. Aldrich & Kluger, *supra* note 86 at 79-80.

times, resulting in possible revictimization.⁹⁴ All of these issues can increase the level of contact and conflict between the parties and increase the risk of further violence and harm.⁹⁵ These problems may be exacerbated for marginalized women and their children, including those who live in poverty, face immigration-related consequences, cannot speak English, have disability-related accessibility issues, or lack access to legal representation and other services.⁹⁶

As noted above, criminal DV courts cannot resolve most of these issues, which occur as a result of the multiplicity of different proceedings in different forums. However, as the next section will discuss, IDV courts arose at least in part as a response to some of these problems.

E. THE 2000S: IDV COURTS

At the same time that specialized criminal DV courts were developing in the United States, members of the legal community called for unified family courts (UFCs) as a way to respond to the fragmentation of family law matters in different courts.⁹⁷ UFCs combine different levels of court jurisdiction in one body to deal with a range of family law matters but do not typically include jurisdiction over criminal matters nor do they specialize in domestic violence issues.⁹⁸ IDV courts in the United States are said to have grown out of this movement towards UFCs and also build on the experience with criminal DV courts.⁹⁹

IDV courts share many of the same characteristics of criminal DV courts but hear criminal, civil, and family matters in one setting. There is also diversity amongst IDV courts, and not all have unified jurisdiction over all matters. The Center for Court Innovation identifies eight key principles associated with IDV courts: “one courtroom for all related cases, comprehensive resources for families, compliance monitoring, advocacy for domestic violence victims, judicial training, community partner involvement, honouring the integrity of each case type, and

94. Martinson, *supra* note 87 at 5.

95. Bala, Birnbaum & Martinson, *supra* note 49 at 404, 411; Martinson, *supra* note 87 at 4-5.

96. *Ibid* at 6-7, 10-11; Vollens, *supra* note 42 at 19-20.

97. In the United States, see *e.g.* Picard-Fritsche, *Litigant Perspectives*, *supra* note 19 at 1. In Canada, see Evaluation Division, Office of Strategic Planning and Performance Management, *The Unified Family Court Summative Evaluation: Final Report* (Ottawa: Department of Justice Canada, 2009) at 7-8 [Office of Strategic Planning, *Unified Family Court Summative Evaluation*].

98. See Dunford-Jackson et al, *supra* note 61.

99. See Aldrich & Kluger, *supra* note 86 at 79. See also Picard-Fritsche, *Litigant Perspectives*, *supra* note 19; Katz & Rempel, *supra* note 19 at 1; Picard-Fritsche, Cissner & Puffett, *Erie County*, *supra* note 19 at 2-3; Cissner, Picard-Fritsche & Puffett, *Suffolk County*, *supra* note 19 at 2-3.

measuring outcomes.”¹⁰⁰ Some IDV courts have separate intake units, while in others, matters are screened and transferred to the IDV court from criminal, civil or family courts according to certain eligibility criteria.¹⁰¹ These eligibility criteria often relate to the types of cases that the litigants have in progress in different courts but may have a qualitative aspect as well.¹⁰² Once in the IDV court, criminal, civil, and family matters are typically heard sequentially to preserve the integrity of different case types, although courts try to ensure that litigants’ matters are heard on the same day.¹⁰³ IDV courts may also be especially attuned to facility issues and litigant needs relating to privacy, on-site childcare and supervised visitation services, and safety.¹⁰⁴

Like DV courts more generally, IDV courts are said to focus on the goals of victim safety and offender accountability.¹⁰⁵ These are the stated objectives of IDV courts in the United States as well as Canada, where Toronto’s IDV court materials emphasize the objectives of “increase[d] accountability of the accused and enhance[d] ... complainant’s safety.”¹⁰⁶ These goals may seem surprising in that they are typically associated with the criminal justice system, yet IDV courts do not deal with criminal matters alone. It has been argued, however, that IDV courts seek to protect victims’ safety by minimizing contact with the offender through orders of protection and by ensuring that such orders do not

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100. Center for Court Innovation, *Integrated Domestic Violence Courts: Key Principles* at 1-3, online: <http://www.courtinnovation.org/sites/default/files/documents/IDV_FACT_SHEET.pdf>.
101. See *e.g.* Levey, Steketee & Keilitz, *supra* note 60 at 16 (describing the DV Intake Centre in Washington, DC’s IDV court), and Melissa Breger, Lee Elkins & Jane Fosbinder, *New York Law of Domestic Violence*, 2d ed, vol 1, (St Paul, MN: Thomson Reuter, 2010) at 35 (describing the transfer process for New York’s IDV courts).
102. See *e.g.* Cissner, Picard-Fritsche & Puffett, *Suffolk County*, *supra* note 19 at 25 (noting how the Suffolk County IDV court selects cases in part based on the benefit that families will receive from the IDV court).
103. In New York, cases may be calendared by family or by area of law, but criminal cases typically proceed first in either model (*ibid* at 28-29); Picard-Fritsche, Cissner & Puffett, *Erie County*, *supra* note 19 at 21.
104. Epstein, *supra* note 14 at 33; Levey, Steketee & Keilitz, *supra* note 60 at 20, 24; Sack, *Creating a Domestic Violence Court*, *supra* note 47 at 37-38.
105. See *e.g.* Office of Policy and Planning, New York State Courts, “Integrated Domestic Violence Courts: Overview,” online: New York State Unified Court System, <http://www.nycourts.gov/courts/problem_solving/idv/home.shtml> (referring to enhanced services to victims and offender accountability as goals of IDV courts) [Office of Policy and Planning, “Integrated Domestic Violence Courts: Overview”]; Picard-Fritsche, Cissner & Puffett, *Erie County*, *supra* note 19 at 3; Cissner, Picard-Fritsche & Puffett, *Suffolk County*, *supra* note 19 at 3.
106. See Ontario Court of Justice, “Overview,” *supra* note 20; Waldman, *supra* note 88 at 1.

conflict with those made in the criminal and family law contexts.¹⁰⁷ Others suggest that civil courts may set norms and send messages to offenders about the unacceptability of domestic violence.¹⁰⁸ Thus, the inclusion of a civil component in IDV courts would not undermine the goal of offender accountability. The one judge/one family model may also protect the interests of children by managing litigation-related conflict between the parents.¹⁰⁹

There is also an access to justice aspect to IDV courts, as they seek to minimize the number of trips to different courts, delays, and associated costs that victims and offenders otherwise experience in order to obtain the broad sorts of relief required in domestic violence situations.¹¹⁰ The goal of avoiding hearings in multiple courts, along with the goal of increasing consistency in court orders, is also related to institutional efficiency considerations.¹¹¹ Other goals of IDV courts include informed judicial decision-making, connection to services and resources, comprehensive and holistic remedies, and coordination and collaboration among criminal justice, child welfare, and community agencies offering services and assistance.¹¹²

There is some critical literature in the United States on IDV courts that raises possible concerns with this type of model.¹¹³ For example, the increased information sharing in IDV courts amongst various justice sector and service providers may make victims more susceptible to losing their children through

107. See Levy, Ross & Guthrie, *supra* note 19 at 21.

108. See MacDowell, *supra* note 18 at 98.

109. See Bala, Birnbaum & Martinson, *supra* note 49 at 398 (albeit dealing with case management in the family court context rather than IDV courts).

110. See Breger, Elkins & Fosbinder, *supra* note 101 at 29 (referring to the “one-stop shopping” aspect of IDV courts); Picard-Fritsche, *Litigant Perspectives*, *supra* note 19 at 1; Levy, Ross & Guthrie, *supra* note 19 at 1-2; Waldman, *supra* note 88 at 4.

111. See Office of Policy and Planning, “Integrated Domestic Violence Courts: Overview,” *supra* note 105. Shaffer argues that IDV courts “provide for the greatest possible efficiency and reduction in transaction costs by coordinating all available services, maximizing court oversight of offenders, and eliminating conflicting judicial orders.” See Shaffer, *supra* note 54 at n 91.

112. “Integrated Domestic Violence Courts: Mission and Goals,” online: New York State Unified Court System, <http://www.nycourts.gov/courts/problem_solving/idv/mission_goals.shtml>; Picard-Fritsche, *Litigant Perspectives*, *supra* note 19 at 1; Katz & Rempel, *supra* note 19 at 1; Ontario Court of Justice, “Overview,” *supra* note 20; Waldman, *supra* note 88 at 3-4.

113. These critiques are found in secondary literature, and are not always borne out in the actual evaluations of IDV courts, as section IIIC will show. Nevertheless, these possible concerns are important in informing criteria for assessment of IDV courts.

child protection proceedings and to other negative family law outcomes.¹¹⁴ Information sharing may also pose safety concerns for victims and children unless strict confidentiality is maintained.¹¹⁵ Another concern is that when criminal and family matters are consolidated, victims may lose control over whether to participate in criminal proceedings.¹¹⁶ Even if we assume that most cases in the IDV courts will involve relationships that have broken down, this does not necessarily translate into an assumption that the victim will wish to pursue criminal charges.¹¹⁷ In addition to the relative informality and lack of an adversarial context that DV courts generally possess, the inability to shop for judges on different issues may also operate to the detriment of litigants in IDV courts.¹¹⁸ On the other hand, reducing opportunities for judge shopping may also be a way of curtailing the manipulation of court processes and perpetuation of court harassment in domestic violence cases.¹¹⁹

Another potential problem is that IDV courts may result in litigation challenging jurisdictional and other aspects of the new model,¹²⁰ potentially delaying the hearing of substantive issues and working against the access-to-justice goal of IDV courts. Even taking their jurisdiction as a given, IDV courts are restricted in the sorts of issues they can consider and the remedies they can provide, which may be narrower than those available through processes such as mediation.¹²¹ The need for legal representation by those with sufficient expertise

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114. Epstein, *supra* note 14 at 34-37; Levey, Steketee & Keilitz, *supra* note 60 at 14-15; MacDowell, *supra* note 18 at 117-18; Members of the violence against women sector, *supra* note 88 at 3-4. See also Dunford-Jackson et al, *supra* note 61 at 141 (writing about UFCs rather than IDV courts).
115. *Ibid.*
116. See *ibid* at 138-39; MacDowell, *supra* note 18 at 115-16. This may also be a concern for DV courts more broadly. See Bennett, *supra* note 56 at 13. The provision of independent victim advocates may help offset this concern.
117. See e.g. Picard-Fritsche, *Litigant Perspectives*, *supra* note 19 at 19 (where only 37% of victims felt that punishment of offenders was an important goal of the IDV court in Yonkers).
118. MacDowell, *supra* note 18 at 113 (noting that where one litigant believes an IDV court judge is predisposed towards the other litigant because of the outcome on a particular issue, the existence of another forum may be an advantage).
119. See Levy, Ross & Guthrie, *supra* note 19 at 19. See also Vollens, *supra* note 42 at 16 (noting that judges often do not respond to court harassment until they see patterns of abuse).
120. See Breger, Elkins & Fosbinder, *supra* note 101 at §§1:6, 1:13 (discussing a number of jurisdictional court challenges raised in relation to IDV courts).
121. Lauren K Williams, "The Use of Mediation as a Complement to the Integrated Domestic Violence Courts of New York" (2012) 13 *Cardozo J Conflict Resol* 713 at 728-29 (recognizing, however, that mediation may not be appropriate in all cases where there has been domestic violence).

in family, civil, and criminal matters has also been identified as a possible challenge for IDV courts.¹²²

Although the literature on IDV courts raises several issues of concern, one issue that is generally absent—similar to the literature on DV courts more generally—is the impact of IDV courts on persons who are marginalized.¹²³ The rights of accused persons are likewise not prominent in IDV court literature.¹²⁴ For example, a recent article on IDV courts enumerates four “key factors” said to be “critical . . . to developing and maintaining an integrated court-based response to domestic violence cases”: planning, training, case integrity, and victim advocacy.¹²⁵ Due process is not mentioned as a key factor, and the discussion of case integrity focuses on the respective roles of the victim and state rather than the accused.¹²⁶ As argued above, it is critical that justice system responses to domestic violence, including IDV courts, focus on due process and procedural fairness concerns as primary considerations. Lastly, the IDV court literature invokes but does not define victim safety and offender accountability any more than does the literature on DV courts generally, nor does it deal with issues of state accountability.

With this background in mind, the next part will review my criteria for assessing IDV courts and present the results of my case study.

122. Dunford-Jackson et al, *supra* note 61 at 143. See also Levey, Steketee & Keilitz, *supra* note 60 at 11, 21.

123. For exceptions, see Levey, Steketee, & Keilitz, *supra* note 60 at 9 (describing the impact that judicial responses may have on disadvantaged groups in the context of an evaluation of an IDV court); Dalley, *supra* note 88 at 9 (noting that there is a lack of information on the impact of IDV courts on marginalized groups); Members of the violence against women sector, *supra* note 88.

124. For an exception, see Dunford-Jackson et al, *supra* note 61 at 139, 141-42 (dealing with due process in the context of UFCs that include criminal jurisdiction).

125. Aldrich & Kluger, *supra* note 86 at 84-85.

126. *Ibid* at 84. The authors do acknowledge the importance of due process and the rights of the accused elsewhere, yet not as a “key factor.”

III. ASSESSING THE IMPACT OF IDV COURTS: A CASE STUDY

A. CRITERIA FOR ASSESSING THE IMPACT OF IDV COURTS

There have been several evaluations of DV courts in Canada¹²⁷ and the United States,¹²⁸ but fewer evaluations of IDV courts, with none to date in Canada.¹²⁹ Some evaluations look at case outcomes to assess the impact that DV and IDV courts have had; others are more qualitative and review the impact of courts from the perspectives of litigants and other stakeholders.

My interest in this study was to examine IDV courts through a focus on the needs and interests of victims, offenders, children, and communities rather than institutional efficiency considerations, although sometimes the two will overlap.¹³⁰ More specifically, I was interested in whether justice system structures such as IDV courts promote access to justice. In the context of violence against women, access to justice has been defined as “the obligation to make simple, rapid, adequate and impartial...recourses available, without discrimination, for the purpose of investigating and punishing these acts and providing redress...”¹³¹ My view is that as long as we maintain an approach to domestic violence that utilizes the justice system, it is worthwhile to consider reform efforts that might

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127. Tutty, Ursel & Douglas, “A Comparison of Models,” *supra* note 24 at 80 (noting that evaluations of DV courts in Canada are not always published or easily accessible); Ursel, Tutty & Lemaistre, eds, *What’s Law Got To Do With It?*, *supra* note 15, includes chapters on evaluations of DV courts in Calgary, Edmonton, Winnipeg, Toronto, and the Yukon. See also Salvaggio, *supra* note 14 (writing about an evaluation of Toronto’s DV court by the Women’s Court Watch Program).
128. See e.g. Labriola et al, *A National Portrait of Domestic Violence Courts*, *supra* note 16, evaluating DV courts in California, Florida, Illinois, New York, and Washington; RR Peterson, *The Impact of Manhattan’s Specialized Domestic Violence Court* (New York: New York City Criminal Justice Agency, 2004); Kelly Diffily, Kamala Mallik Kane, Lisa Newmark & Michael Rempel, *Specialized Felony Domestic Violence Courts: Lessons on Implementation and Impact from the Kings County* (Washington, DC: Urban Institute Justice Policy Center, 2001).
129. See Katz & Rempel, *supra* note 19 at 1. For examples of IDV court evaluations, see e.g. Levey, Steketee, & Keilitz, *supra* note 60 (evaluating Washington DC’s IDV court); Sack, *Creating a Domestic Violence Court*, *supra* note 47 (examining the IDV Court in Westchester, NY as a case study); Levy, Ross & Guthrie, *supra* note 19 (examining the IDV court in Queens, New York); Picard-Fritsche, *Litigant Perspectives*, *supra* note 19 (examining the IDV court in Yonkers, New York); Katz & Rempel, *supra* note 19 (examining IDV courts in nine New York State counties as well as the Erie and Suffolk County IDV court evaluations).
130. For example, trial delays may impact victim willingness to testify. See Center for Court Innovation, *Spotlight on Victim Safety*, *supra* note 70.
131. Inter-American Commission on Human Rights (IACHR), *Access to Justice for Women Victims of Violence in the Americas*, OEA/Ser.L/V/II. Doc. 68 (20 January 2007) at 3.

improve the justice response to domestic violence.¹³² Furthermore, although the more ambitious goals of victim safety and offender accountability are put forward as primary objectives of DV and IDV courts, these goals are not well defined (as I noted above in Part II) and it is difficult to evaluate whether the courts themselves are having an impact on recidivism, not to mention overall rates of domestic violence and domestic homicide.¹³³ My focus is therefore on whether domestic violence cases are dealt with in ways that ensure victims and offenders are treated fairly, without discrimination, and have ready access to services, supports, and remedies that are “simple, rapid, adequate and impartial.”¹³⁴

Another important measure of evaluation is whether IDV courts are having the sort of unintended consequences that flowed from the earlier domestic violence reforms discussed in Part II. More specifically, IDV courts should not pose new risks and problems for victims, offenders, or children, and should not have an adverse impact on members of marginalized groups. Although the literature on DV and IDV courts has not focused on this issue, it is highly significant in terms of equality of access to justice.¹³⁵

I was also interested in exploring whether IDV courts can make positive changes at the societal, systemic level, or can only provide individualized responses to domestic violence. It is important to examine whether the therapeutic, problem-solving model of IDV courts reinforces the individualization of domestic violence at the risk of undermining societal and structural changes, particularly since the literature focuses on individual rather than state accountability. Actual change at the systemic level would be difficult to measure, but the involvement of judges and other IDV court players in public education about domestic violence, its structural, gendered and other disproportionate aspects, and the proper role of the state in combatting it may nevertheless have some societal impacts.¹³⁶ At the same time, arguments in favour of “court pluralism” suggest that the criminal,

132. Weissman, *supra* note 65 at 1136-37. As Weissman argued, some solutions to domestic violence can only be pursued through the courts, making them a worthwhile target of reform.

133. See *e.g.* Moore, *supra* note 14 at 7-8 (noting the difficulties in measuring recidivism).

134. IACHR, *supra* note 131 at para 5. Another issue is whether the appropriate domestic violence cases are ending up before the courts, which relates to the actions of police, prosecution, and child protection workers. My research was unable to assess this issue, and DV/IDV court evaluations have not attempted to measure it. See Part IV of this article.

135. For a discussion of equality of access to justice generally, see Canadian Bar Association, *Access to Justice Metrics: A Discussion Paper* (Ottawa: CBA, 2013) at 23-24.

136. For discussions of this sort of judicial role, see Dunford-Jackson et al, *supra* note 61 at 137; Salvaggio, *supra* note 14 at 16-17; Tsai, *supra* note 21 at 1325-26; Turgeon, *supra* note 61 at 357, 361, 367.

civil, and family justice systems serve unique functions that may be lost through integration, including the normative, symbolic, and educative functions of the criminal justice system.¹³⁷

What do New York's IDV courts reveal about the ability of these courts to promote access to justice, avoid unintended consequences, and deal with domestic violence issues systemically?

B. IDV COURTS IN NEW YORK: SETTING THE CONTEXT

The model for IDV courts in New York was developed by Judge Judy Harris Kluger in collaboration with the Center for Court Innovation in 2000. Six pilot courts were established between 2001 and 2002 in various counties.¹³⁸ The pilot courts were to focus on several key issues: jurisdiction; planning, staffing and technical assistance; case identification, screening and calendaring; legal representation; judicial monitoring and offender accountability; judicial and non-judicial training; technology; courthouse safety; case integrity, confidentiality and record keeping; domestic violence services; use of community resources; and assessment.¹³⁹ After approval by then Chief Judge Judith Kaye, further IDV courts were introduced following the pilots, with intensive planning and implementation processes for each. More than half of the sixty DV courts in the state of New York are now IDV courts.¹⁴⁰ IDV courts in New York reportedly dealt with over 113,500 cases and 22,000 families in the ten-year period between 2001 and 2011.¹⁴¹ In New York City, IDV courts operate in all five boroughs.¹⁴²

Jurisdictionally, New York IDV courts operate as a part of the Supreme Court, and can hear both felony and misdemeanour criminal charges,¹⁴³ as well as matters handled by the Family Court (*e.g.*, custody and visitation, abuse and neglect, and family offence petition/protection order cases) and the Supreme

137. MacDowell, *supra* note 18 at 96.

138. Cissner, Picard-Fritsche & Puffett, *Suffolk County*, *supra* note 19 at 4.

139. *Ibid* at 4, Appendix A. The authors note that following the pilot period, these key components were modified (*ibid* at 51).

140. Center for Court Innovation, "A National Compendium," *supra* note 46 at 6-10. Office of Policy and Planning, "Integrated Domestic Violence Courts: Overview," *supra* note 105 (reporting that there are currently 46 IDV courts in New York state).

141. *Ibid*.

142. See *e.g.* New York State Unified Court System, NYS Supreme Court, Criminal term, NY County 1st JD, on-line: New York Courts, <http://www.nycourts.gov/courts/problem_solving/idv/courts.shtml> (on the Manhattan IDV Court).

143. In New York, there are no specific offences related to domestic violence, and the general offences of assault, stalking, etc., apply. See *NY Penal Code*, § 120.

Court (*e.g.*, matrimonial issues).¹⁴⁴ However, not all IDV courts in New York deal with all of the issues over which they have jurisdiction.¹⁴⁵ New York IDV courts do not integrate case intake into their operations, as IDV courts in some other jurisdictions do. Instead, cases are transferred from other courts.¹⁴⁶ Specific eligibility criteria may differ amongst IDV courts in New York, but cases are normally eligible where they have been commenced and are pending in two out of three forums (criminal, family, and supreme courts) and involve overlapping parties or witnesses.¹⁴⁷ Cases identified for transfer to IDV courts are to be screened within five days of receiving the files to determine if the transfer will promote the administration of justice (which is not defined in the materials available).¹⁴⁸ If so, transfer to an IDV court is made, where the cases proceed according to the rules of the court where the action was originally commenced.¹⁴⁹ Cases that arise subsequently between the same parties may also be litigated in the IDV court.¹⁵⁰

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144. Berger, Elkins & Fosbiner, *supra* note 101, §1:6, citing *People v Correa*, 15 NY (3d) 213 (Court of Appeals 2010) (affirming the jurisdiction of the Chief Judge to establish IDV courts at the Supreme Court level and to handle misdemeanour, as well as felony charges under Article VI of the New York Constitution, which established a unified court system in New York).
145. For example, Manhattan's IDV Court does not currently handle abuse and neglect cases. See below Part IV.C. Support magistrates deal with child support issues for jurisdictional reasons, but IDV courts may still be involved, for example, by making temporary orders. See Judy Reichler & Liberty Aldrich, "Child Support Protocol: A Guide for Integrated Domestic Violence Courts" (2004) Center for Court Innovation at 4-8.
146. See Epstein, *supra* note 14 at 28 (indicating that at the time of her article, only 3 IDV courts took an approach that integrated intake (in the District of Columbia, Florida, and Hawaii)).
147. See New York State Unified Court System, "Integrated Domestic Violence Courts: Key Principles," online: New York Courts <http://www.nycourts.gov/courts/problem_solving/idv/key_principles.shtml> (noting that "criminal allegations of domestic violence should form the threshold requirement for entry into the IDV Court"). But for an example of an IDV court focusing on matrimonial cases as a key eligibility requirement because of local needs, see *e.g.* Cissner, Picard-Fritsche & Puffett, *Suffolk County*, *supra* note 19 at 24-25.
148. See Part 141, *Rules of the Chief Administrator of the Courts* at §141.4(a)(2), online: New York Courts, <http://www.nycourts.gov/rules/chiefadmin/141-1_amend2.pdf>. One interviewee questioned whether this five day turnaround was being met. Justice Interviewee 1 (see *infra* note 151 for an explanation of interviewee identification conventions).
149. Breger, Elkins & Fosbinder, *supra* note 101 at §§1:6, 1:13; Part 141, *supra* note 148 at §141.5(b).
150. See *e.g.* Cissner, Picard-Fritsche & Puffett, *Suffolk County*, *supra* note 19 at 24 (distinguishing between "qualifying" and "additional" cases).

C. MANHATTAN'S IDV COURT: A CASE STUDY

In this section, I investigate Manhattan's IDV court as a case study, based on courtroom observations and interviews with justice system and institutional representatives, as well as victim, offender and children's advocates involved in the implementation and operation of the IDV courts in New York. I conducted semi-structured interviews in person and by telephone from November 2011 through January 2012 with nine victim, offender, and children's advocates (lawyers and social workers) and four justice sector/institutional representatives (judges and administrators) in Manhattan. Many of them worked in, and were familiar with, the IDV courts in the other boroughs as well. Unfortunately, in spite of several attempts, I was not able to conduct interviews with anyone from the District Attorney's office or the New York Police Department (NYPD).¹⁵¹ Interviews were recorded, transcribed, and then coded for themes.

It must be emphasized that this is not a full evaluation of the IDV court.¹⁵² I did not review court files to obtain quantitative data on case numbers and outcomes, nor did I interview victims and offenders. Although my sample is small, the qualitative interviews and courtroom observations shed useful light on the Manhattan IDV court and how it fares in terms of facilitating access to justice, avoiding unintended consequences, and responding to domestic violence systemically, from the perspectives of actors involved in its operations. As noted by one author, qualitative methods can uniquely probe issues of "court culture and function rather than case outcomes."¹⁵³ Qualitative methods are also important for exploring issues that are not statistically verifiable, such as the impact of IDV courts on members of marginalized groups.¹⁵⁴ In addition, interviewing both institutional representatives and advocates allowed me to compare their

151. Interviewees are anonymous and identified as "Justice Interviewee X" in the case of judges and other justice sector and institutional personnel or "Advocate Interviewee X" in the case of lawyers and social workers serving the needs of victims, offenders or children. The interview questions are attached as Appendix A and are based on those used in an evaluation of Calgary's DV court in which I participated. See Tutty et al, *Calgary DV Court Evaluation*, *supra* note 59 at Appendix 5.

152. There has not yet been a full evaluation of Manhattan's IDV court. More generally, see Katz & Rempel, *supra* note 19 at 1 (noting that "the existing research on IDV courts is limited").

153. MacDowell, *supra* note 18 at n 11. This was confirmed by Justice Interviewee 1, who noted that the mindfulness of case outcomes can only be determined qualitatively. See also Canadian Bar Association, *supra* note 135 at 5-6 (noting the importance of stakeholder perspectives in assessing justice system effectiveness in the access to justice context).

154. This is not to say that the impact of courts on marginalized groups is not statistically verifiable, but such statistics are not currently being kept by the Manhattan IDV court.

perspectives, with some interesting differences of opinion. I compare my findings to the outcomes of recent evaluations of other IDV courts in New York in the next section, which provides some support for the observations I make here.

Manhattan's IDV court commenced operations in 2007 and has been presided over since its inception by Judge Tandra L. Dawson. Judge Dawson formerly worked as an Assistant District Attorney in the Bronx from 1983 to 1998, sat as a family court judge in the Bronx from 1998 to 2007, and was Acting Justice in the Bronx County IDV court from 2002 to 2007. She was also a member of the New York Bar Association's Domestic Violence Task Force from 2003 to 2006, and a member of the Black Bar Association in Bronx County from 1984 to 2005.¹⁵⁵ The Manhattan IDV court operates out of the New York State Supreme Court, Criminal Division premises in Lower Manhattan. Like most IDV courts, it has a Resource Coordinator, Court Attorney, victim advocates (through Safe Horizon, which has facilities on-site), children's advocates (who provide independent legal representation to children), and other dedicated staff and attorneys. Its proceedings are open to the public, and it has separate calendars for criminal, family, and matrimonial cases, with criminal cases being called first. It does not currently deal with child abuse and neglect matters, and it conducts only bench trials, not jury trials, in the criminal area.¹⁵⁶

Interviewees were asked for their impressions of why IDV courts had developed in New York and the processes and challenges around development and implementation. Several goals or rationales for integration were repeatedly mentioned: the need to reduce conflicting orders between criminal, family, and supreme courts and provide more information to judges, litigants, and other court personnel;¹⁵⁷ the need to streamline and centralize court processes and services in domestic violence cases and improve access to justice for litigants¹⁵⁸ (although some justice sector interviewees indicated that reduced time to disposition was not a goal of New York IDV courts);¹⁵⁹ and the need to recognize the unique nature of domestic violence cases and the multiplicity and connectedness of issues those cases raise.¹⁶⁰ Victim safety, offender accountability, and "justice for all litigants" were also noted as goals of New York's IDV courts.¹⁶¹

155. New York State Unified Court System, Judicial Directory, online: New York Courts <<http://www.nycourtsystem.com/applications/judicialdirectory/Bio.php?ID=7028848>>.

156. Justice Interviewees 1 & 4.

157. Advocate Interviewees 4, 5, 6 & 7; Justice Interviewees 2, 3 & 4.

158. Advocate Interviewees 6 & 7; Justice Interviewees 1, 2, 3 & 4.

159. Justice Interviewees 1 & 4.

160. Advocate Interviewees 1 & 4; Justice Interviewees 1 & 4.

161. Justice Interviewee 4.

Another perspective was that domestic violence provided a concrete context in which the New York State court system could push for unification of the courts more broadly.¹⁶² As a result, the development of IDV courts in New York was led by the courts rather than the community—an approach that one interviewee described as “top-down” while still (along with others) acknowledging the crucial leadership of particular judges committed to improving the justice response to domestic violence through integration.¹⁶³ Community and justice system stakeholders did participate in the start-up of the IDV courts, as did the Center for Court Innovation.¹⁶⁴ Interviewees noted that there were concerns initially expressed by prosecutors, defence attorneys, and victims’ advocates about potential issues flowing from integration, such as due process concerns arising out of more information sharing, the dilution of both the family and criminal aspects of domestic violence by virtue of being linked to each other, and the lack of human resources to service the courts.¹⁶⁵ Most of the justice sector interviewees expressed the view that these issues had been addressed by New York’s IDV courts and that there was broad stakeholder buy-in.¹⁶⁶ While most advocate interviewees agreed that the IDV courts had made efforts to respond to concerns, they raised lingering problems with the courts that will be noted below.

Both advocate and justice sector interviewees identified several advantages of the IDV courts in New York and improvements they have made to the more traditional, siloed approach to domestic violence. Almost all interviewees indicated that New York’s IDV courts had achieved their goal of avoiding inconsistent orders, and I saw several examples of the efforts made in this regard during my courtroom observations.¹⁶⁷ There was also broad agreement that IDV courts had met their goal of providing better logistical coordination: for example, regarding court appearances and timely access to information such as compliance reports, as well as better communication and collaboration between the players who did not tend to see each other when their matters were heard in different courts. These improvements were seen to have access-to-justice advantages for litigants,

162. Advocate Interviewees 1 & 4; Justice Interviewees 1 & 3. See also Cissner, Picard-Fritsche & Puffett, *Suffolk County*, *supra* note 19 at 1 (noting the “particular resonance” of IDV courts in New York because the state has “one of the most complicated trial court structures in the country”).

163. Advocate Interviewees 1 & 6; Justice Interviewee 1.

164. Advocate Interviewee 6; Justice Interviewees 1 & 4.

165. Justice Interviewees 1, 2, 3 & 4.

166. Justice Interviewees 2, 3 & 4.

167. Advocate Interviewees 1, 4, 5, 6, & 7; Justice Interviewees 1, 2, 3, & 4. One interviewee suggested that inconsistency was not necessarily a problem provided that it was mindful.

for example, in accommodating work and other schedules and avoiding delays.¹⁶⁸ I noted the great care taken around scheduling in my observations of Manhattan's IDV court. For example, matters were sometimes adjourned until later the same morning to avoid multiple trips to court. The perception of interviewees was that litigants generally have to appear in court less often, they receive shorter adjournments between appearances, and they (and their advocates) spend less time making trips to different courts and re-telling their stories. These advantages were seen as enhancing access to justice.¹⁶⁹

Some interviewees also indicated that victims seemed to be more willing to participate in the IDV court process and that it was easier to connect them to advocates.¹⁷⁰ Furthermore, the interests of children were better represented through the constant presence of independent children's advocates in the IDV court, as well as the court's ability to have a fuller picture when considering and monitoring visitation. Avoiding multiple trips to court and mandating treatment may also facilitate job retention and payment of child support.¹⁷¹ Greater availability of services for victims, offenders, and children were noted as benefits, and the role of the court's Resource Coordinator was lauded in this respect.¹⁷² Better monitoring of offenders by keeping matters on the IDV court calendar following disposition was also identified, although it was acknowledged that this might result in more court appearances.¹⁷³ It was also noted that retaining matters on the IDV court calendar might increase opportunities for victim participation (although victims do not always need to be present).¹⁷⁴ Perhaps most importantly, many interviewees felt that IDV court judges, lawyers, and other players displayed greater sensitivity to domestic violence issues than other courts because of their knowledge, expertise, and commitment, and that this resulted in more thoughtful outcomes.¹⁷⁵ However, there was some disagreement here, with some advocates suggesting a lack of understanding of the dynamics of domestic violence on the part of children's lawyers and defence attorneys,¹⁷⁶ and

168. Advocate Interviewees 2, 3, 4, 5, 6, 7, 8, & 9; Justice Interviewees 1, 3, & 4.

169. Advocate Interviewees 4, 5, 6, 7, & 9; Justice Interviewees 1, 2, 3, & 4.

170. Advocate Interviewee 5; Justice Interviewees 1, 3, & 4.

171. Advocate Interviewees 1, 5, 6, 7 & 8; Justice Interviewees 1, 3 & 4.

172. Advocate Interviewees 5, 7 & 9; Justice Interviewees 1, 2 & 4.

173. Advocate Interviewees 7 & 8; Justice Interviewees 1, 3 & 4. In my observations I noted that the court attempted to make its expectations very clear to offenders who would be monitored, as well as stating clear consequences for violating protection and other orders.

174. Justice Interviewee 1.

175. Advocate Interviewees 1, 2, 4, 5, 6, 7 & 8; Justice Interviewees 1, 3 & 4.

176. Advocate Interviewees 1, 4 & 5.

one advocate suggesting a lack of sensitivity on the part of the court around the abuse of men by women.¹⁷⁷

There were differing perspectives on the ability of IDV courts to deal with the needs of marginalized litigants and communities. On the positive side, the role of organizations serving these needs in bringing issues to the attention of the court was noted, along with the availability of specialized services and the diversity of court personnel.¹⁷⁸ Others mentioned the court's sensitivity to the needs of immigrants and litigants who spoke English as a second language, although some also indicated that translation services were often subpar.¹⁷⁹ Many interviewees were skeptical about whether IDV courts could serve the needs of marginalized groups better than other courts, believing that this was often dependent on the particular judge.¹⁸⁰ Others thought that IDV courts were taking the right approach by treating all litigants the same, regardless of their identity.¹⁸¹ Perhaps most concerning was the anecdotal observation that certain populations are not seen very often in the Manhattan IDV court, including LGBT, African American, and elderly litigants,¹⁸² and the acknowledgement that the IDV court is not keeping statistics on this basis.¹⁸³

Opinions also differed on whether IDV courts have made an impact in terms of emphasizing domestic violence as a societal rather than individual problem. Some interviewees suggested that the mere existence of IDV courts indicated a commitment to dealing with domestic violence as a societal problem and showed that domestic violence should be treated both as more than a family matter and as more than a crime.¹⁸⁴ The involvement of the Manhattan IDV court in public legal education and outreach was also noted in this regard,¹⁸⁵ although others questioned whether the level of such outreach was sufficient and suggested that the court was fairly insular.¹⁸⁶ Many interviewees felt that IDV courts had not made much of an impact in dealing with the root causes of domestic violence,

177. Advocate Interviewee 9.

178. Advocate Interviewee 6; Justice Interviewees 3 & 4.

179. Advocate Interviewees 1 & 5.

180. Advocate Interviews 2, 3, 4, 5 & 6.

181. Advocate Interviewees 7 & 8.

182. Advocate Interviewee 9 (as opposed to poor and Hispanic victims and offenders, who were said to appear frequently).

183. However, the Center for Court Innovation is involved in a self-assessment project with DV and IDV courts in New York that is attempting to measure the courts' impact on marginalized populations (Justice Interviewees 1 & 3).

184. Advocate Interviewees 1, 5, & 6; Justice Interviewees 1 & 3.

185. Justice Interviewee 3.

186. Advocate Interviewees 4, 6, 7 & 8.

nor in terms of recidivism, reporting levels, or the police response to domestic violence (including dual arrests).¹⁸⁷ However, one defence attorney stated that she had not represented or seen very many females charged with criminal matters in the IDV courts, perhaps suggesting fewer dual arrests.¹⁸⁸

Other more specific problems and challenges were identified with respect to the Manhattan IDV court. For example, although some interviewees indicated that the court provided better information sharing, it appears that this largely accrues to judges and other justice system personnel, as many advocates noted that their clients lacked basic information about the process (particularly for transfer) and would benefit from an orientation or better informational resources.¹⁸⁹ Some advocates provide this information to litigants themselves but also see a role for the court to play. I noted this issue during my courtroom observations. Even with my legal training and litigation experience in domestic violence matters (albeit in another jurisdiction), it was sometimes difficult to follow the proceedings. While some interviewees mentioned the advantages of cross-training for lawyers so that they could act in criminal, civil, and family matters,¹⁹⁰ others indicated attorneys' lack of expertise or lack of willingness to undertake family matters.¹⁹¹ Similarly, the Manhattan IDV court's relative lack of expertise on matrimonial matters was noted, as well as the need for it to consider domestic violence more seriously in limiting batterers' visitation rights and in batterers' use of the court to perpetrate further abuse.¹⁹² The need for more intensive, ongoing training—including training on the needs of marginalized individuals and groups—was recommended for judges, advocates, police, forensic evaluators, and supervised visitation providers, both in IDV courts and more broadly. On the latter point, the risk of IDV courts becoming “pink ghettos” was noted as a rationale for ensuring broader training on domestic violence issues.¹⁹³

Interviewees also had concerns about the lack of full integration of domestic violence matters and the ways in which integration (or lack thereof) affected progress on particular issues. The fact that the Manhattan IDV court does not hear abuse and neglect cases was seen as an issue, especially given some of the

187. Advocate Interviewees 1, 4, 5, 6 & 9; Justice Interviewees 1 & 3. Some of these interviewees noted that it was not realistic to expect that the IDV court would have much of an impact on police response or at least not any more so than DV courts generally.

188. Advocate Interviewee 9.

189. Advocate Interviewees 2, 3, 5 & 6.

190. Advocate Interviewees 4, 7 & 8.

191. Advocate Interviewees 5 & 9.

192. Advocate Interviewees 1, 2, 4, 5 & 7.

193. Advocate Interviewees 1, 3, 4 & 5; Justice Interviewees 1 & 2.

historical problems with child protection issues in domestic violence cases, as well as the delays caused by having these issues dealt with in family court. Some interviewees questioned why, if the reason for not hearing these cases was one of insufficient resources, the IDV court was about to begin hearing cases of sexual abuse and took the time to hear additional criminal matters it considered relevant to the resolution of domestic violence matters, such as drug charges. Others expressed the opinion that the failure to take on abuse and neglect cases had more to do with the child protection agency's unwillingness to participate in IDV court.¹⁹⁴ Interviewees also observed that the Manhattan IDV court dealt with few felonies and conducted few criminal trials, again suggesting that the court's full jurisdiction was not being used.¹⁹⁵

Lack of resources and cutbacks were widely cited as problematic. In particular, the new limits on funded supervised visitation were seen as a significant challenge, along with lack of funding for training, outreach, and evaluation.¹⁹⁶ Perhaps related to resource issues, interviewees mentioned the perceived pressure to resolve and settle matters quickly.¹⁹⁷ In my courtroom observations, I noted a good deal of informal mediation from the bench. At the same time, matters may move more slowly in IDV court due to the time lag for transfer, the need to process criminal matters first for due process reasons, the intensive monitoring conducted by the court, and the often gradual approach to allowing visitation rights.¹⁹⁸ As foreseen in the literature, the ways in which information from the IDV court's criminal and family calendars may influence the resolution of other matters was also noted by interviewees, which may cause concerns for both victims and offenders.¹⁹⁹ One victim's advocate suggested that information seepage may actually facilitate court-based harassment when offenders seize upon adverse credibility findings against the victim and use this opportunity to make false allegations, while others believed that IDV courts are better placed to identify and respond to such situations. Another advocate interviewee, a defence attorney, noted how the IDV court's decision to hear related criminal matters such as drug charges might also negatively affect her clients.²⁰⁰

194. Advocate Interviewees 1, 7, 8 & 9; Justice Interviewees 1, 2 & 3.

195. Advocate Interviewees 2 & 9.

196. Advocate Interviewees 6, 7 & 8; Justice Interviewees 1, 2, 3 & 4.

197. Advocate Interviewees 1, 4 & 9.

198. Advocate Interviewees 1, 3, 4 & 5; Justice Interviewees 1 & 3.

199. Advocate Interviewees 7, 8 & 9; Justice Interviewee 4. I found the appearance of a man in handcuffs one minute (when his criminal case was called) and then not the next (when his family case was called) rather jarring in terms of information seepage.

200. Advocate Interviewees 5, 6 & 9.

Insufficient security and privacy for litigants and their advocates were mentioned as a problem as well, with one advocate noting that her clients would prefer to have family matters resolved in a closed courtroom and others decriing the lack of private meeting space for lawyers and their clients.²⁰¹ I also noted privacy concerns during my courtroom observations—litigants and their advocates often chatted about their cases on the benches in the courtroom, apparently because of a lack of meeting space in the facilities where the Manhattan IDV court sits. On the other hand, one justice interviewee suggested that hearing domestic violence matters in open court might allow more family members to attend and demystify the process for the public.²⁰² Efforts also appeared to be made to protect victims' safety through the protection of personal information.²⁰³

In addition to those recommendations already noted, interviewees advocated better oversight and availability of supervised visitation providers; certification of other service providers funded by the state;²⁰⁴ more comprehensive services (for example, legal representation and assistance with child support and protection order petitions), including services integrated in the courthouse;²⁰⁵ alternatives to batterer treatment programs and better availability of such programs in multiple languages;²⁰⁶ more collaboration, stakeholder meetings and outreach;²⁰⁷ and more ongoing reflection and evaluation by the IDV courts.²⁰⁸ Within the limits of what courts can actually achieve in the context of domestic violence, the potential for IDV courts to be leaders in reforming the justice system's response was also identified as a worthy goal.²⁰⁹

D. NEW YORK IDV COURT EVALUATIONS

A number of evaluations of New York IDV courts were released in July 2012. Along with earlier evaluations, they confirm many of the observations of the advocates, justice and institutional personnel I interviewed about the benefits and challenges of IDV courts. In the two evaluations in which litigant satisfaction was surveyed, respondents noted that IDV courts have the advantages of reducing

201. Advocate Interviewees 1, 6 & 9.

202. Justice Interviewee 4.

203. This point is based on my courtroom observations.

204. Advocate Interviewees 4 & 5; Justice Interviewees 2 & 4.

205. Advocate Interviewees 6 & 9; Justice Interviewee 3.

206. Justice Interviewees 2, 3 & 4.

207. Advocate Interviewees 2 & 6; Justice Interviewee 1.

208. Justice Interviewees 1, 2 & 3. Because they are independent, evaluations normally require the acquisition of funding.

209. Advocate Interviewee 5.

inconsistent orders, improving access to information, communication, and collaboration, and improving the availability of services.²¹⁰ Victims interviewed in Queens commented favourably on the access to justice aspect of the IDV court in that they required fewer days off work and less running around.²¹¹ These were all noted as advantages of the Manhattan IDV court in my interviews. Interestingly, however, the studies measuring quantitative data found that even though they resulted in fewer trips to court, many IDV courts actually required more court appearances overall and a longer time to disposition than non-IDV courts.²¹²

The qualitative studies also involved interviews of litigants for their perceptions about the fairness of IDV courts, which is another aspect of access to justice. A majority of victims in Queens felt that the IDV court process was “generally fair,”²¹³ although other victims believed that their voices had not been adequately heard or their circumstances fully taken into account by the Queens IDV court.²¹⁴ The victims also expressed some concerns about their experiences with assistant district attorneys, law guardians (children’s lawyers) and police.²¹⁵ In the Yonkers IDV court evaluation, 59% of victims reported that their cases had been dealt with fairly, compared to only 44% of offenders (with 26% of offenders strongly disagreeing). The overall results showed that 55% of litigants believed they had been listened to carefully and 53% felt that the judge had accounted for their opinions in decision-making.²¹⁶ Similar to the results from my interviews in Manhattan, some concerns were expressed in both Queens and

210. Picard-Fritsche, *Litigant Perspectives*, *supra* note 19 at 14, 20-21; Levy, Ross & Guthrie, *supra* note 19 at 18, 21, 26.

211. *Ibid* at 15.

212. See Katz and Rempel, *supra* note 19 at 10 (finding that cases in the nine IDV courts studied for the report took more than twice as long to resolve and had twice as many court appearances than the comparison sample); Cissner, Picard-Fritsche & Puffett, *Suffolk County*, *supra* note 19 at 35-38 (finding that cases in the Suffolk County IDV court took longer to resolve and required more court appearances than the comparison sample, although fewer overall trips to court were required). See also Picard-Fritsche, Cissner and Puffett, *Erie County*, *supra* note 19 at 27-30 (finding that cases in the Erie County IDV court took slightly longer to resolve but required fewer court appearances and fewer overall trips to court than the comparison sample). Time for case transfers to IDV court alone did not explain the results in any of these studies.

213. Levy, Ross & Guthrie, *supra* note 19 at 16.

214. *Ibid* at 16-17. Many of the women reportedly relied on their attorneys to speak for them and also had concerns about how they had been represented. The authors note that dissatisfaction with court fairness was often related to dissatisfaction with case outcomes (*ibid* at 17-18).

215. *Ibid* at 23-25.

216. Picard-Fritsche, *Litigant Perspectives*, *supra* note 19 at 12-13.

Yonkers about a lack of understanding of the IDV court process.²¹⁷ In Queens, it was noted that this was a particular concern for women with poor literacy and English language skills.²¹⁸

In terms of IDV court processes, a large majority of litigants surveyed in Yonkers believed that the information from family matters had been used in criminal cases and vice versa.²¹⁹ Victims were more likely to think that having all of their matters heard by a single judge was advantageous in this respect,²²⁰ as well as (in Queens) reducing possibilities for offenders to manipulate court processes (although the Queens report also found that dual charges do occur in IDV court).²²¹ This is similar to my interviews in Manhattan where information seepage and the inability to judge-shop were seen as potential advantages by some interviewees; however, one victim advocate and a defence attorney expressed concerns about these so-called advantages. On the other hand, in Suffolk County, interviews indicated that defence attorneys were not particularly concerned about such due process issues, perhaps because they were satisfied with case outcomes.²²² The perceived pressure to settle that was noted by some interviewees in Manhattan was confirmed by the quantitative studies, which found that family cases in some New York IDV courts are more likely to settle than in non-IDV courts.²²³ In contrast to Manhattan, courthouse security and privacy concerns were not as prominent in Queens and Yonkers, though there was still a sense that more could be done in Queens.²²⁴ There was support for existing services such as victims' advocates in Queens and Yonkers, but the need for enhanced services and a lack of resources were also noted as problems.²²⁵

217. *Ibid* at 15; Levy, Ross & Guthrie, *supra* note 19 at 27.

218. *Ibid*.

219. See also Cissner, Picard-Fritsche & Puffett, *Suffolk County*, *supra* note 19 at 41 (noting that non-carceral sentences are more frequent in IDV courts, perhaps because of better knowledge of family issues such as child support obligations).

220. Picard-Fritsche, *Litigant Perspectives*, *supra* note 19 at 19.

221. Levy, Ross & Guthrie, *supra* note 19 at 19-20. Offenders may also raise false claims of abuse and neglect and try to manipulate law guardians (*ibid*).

222. Cissner, Picard-Fritsche & Puffett, *Suffolk County*, *supra* note 19 at 28-29.

223. Katz & Rempel, *supra* note 19 at 11; Picard-Fritsche, Cissner & Puffett, *Erie County*, *supra* note 19 at 30. But see Cissner, Picard-Fritsche & Puffett, *Suffolk County*, *supra* note 19 at 38-39 (showing that family cases in the Suffolk County IDV court were less likely to settle than those in the comparison sample).

224. Levy, Ross & Guthrie, *supra* note 19 at 22; Picard-Fritsche, *Litigant Perspectives*, *supra* note 19 at 20.

225. Levy, Ross & Guthrie, *supra* note 19 at 26-28 (for example, referring to the need for on-site childcare); Picard-Fritsche, *Litigant Perspectives*, *supra* note 19 at 21. Surprisingly, less than half of the respondents in Yonkers had contact with victim advocates (*ibid*).

None of the evaluations dealt with the question of whether IDV courts were responding to domestic violence systemically or in terms of responding to the needs of marginalized populations.

IV. DISCUSSION: CONSIDERING IDV COURTS IN CANADA

Canada has a fair amount of experience with criminal DV courts, but much less so with IDV courts. As indicated in the literature review in Part II, specialized DV courts may make some improvements in the criminal realm, but they do not respond to the concerns about a fragmented approach to domestic violence issues. This part will review the challenges and benefits of introducing IDV courts in Canada as a means of dealing with those concerns, based on the results of my case study. It will also identify areas for further research.

One potential challenge to introducing IDV courts in Canada is that in those provinces without unified family courts,²²⁶ jurisdiction over criminal, civil, and family matters that arise in the domestic violence context is complex, with matters constitutionally and administratively divided between superior and provincial/territorial courts, and sometimes, different divisions of those courts.²²⁷ Only Canadian jurisdictions with, or willing to implement, unified courts could establish IDV courts that follow the New York model, where all criminal, civil, and family matters are, at least in theory, integrated at the superior court level. Currently, unified courts only exist in certain locations in Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, PEI, and Newfoundland and Labrador, and they are only unified with respect to family matters.²²⁸ The full implementation of IDV courts would require expansion of the jurisdiction of UFCs to include civil and criminal matters as well. This would likely require amendments to civil domestic violence legislation, which typically grants jurisdiction to provincial/territorial courts and judicial officers to grant protection orders on a round the clock, *ex parte* basis, with superior court review of such orders on notice to the respondent.²²⁹ If IDV courts were to take jurisdiction over civil protection orders, that might undermine victims' access

226. There are no unified family courts (UFCs) in the provinces of British Columbia, Alberta, or Quebec, and in some other provinces, not all cities have UFCs. See Office of Strategic Planning, *Unified Family Court Summative Evaluation*, *supra* note 97 at 7.

227. See *Constitution Act, 1867* (UK), 30 & 31 Victoria, c 3, reprinted in RSC 1985, App II, No5, ss 92(14) and 96.

228. See Elizabeth Thompson, "What's the holdup?" *Canadian Lawyer* (August 2012), online: <<http://www.canadianlawyermag.com/4259/whats-the-holdup.html>>.

229. See Busby, Koshan & Wiegers, *supra* note 48 at 198.

to such orders (assuming that IDV courts will sit during regular business hours only). This would favour concurrent rather than exclusive jurisdiction over civil protection orders. Fully integrated IDV court jurisdiction would also require amendments to the *Criminal Code*, given the provincial/territorial and superior courts' shared jurisdiction over domestic violence-related offences.²³⁰

UFCs require provincial and federal agreement. Expansion of the current number of UFCs has met with some resistance. This resistance has been attributed to both levels of government at different times, often for financial reasons, as well as to some senior members of the judiciary.²³¹ In jurisdictions without UFCs, IDV courts would have to operate at either the provincial/territorial or superior court level, which would preclude the full integration of civil, criminal, and family matters. This would also preclude some of the access-to-justice advantages of full integration, as evidenced by my case study.²³² Even where UFCs exist, they are usually confined to urban centres, although some jurisdictions, such as New Brunswick, operate UFCs across the province.²³³ Full IDV courts in the United States are also largely confined to urban settings, but integration may be implemented in less comprehensive ways in rural areas.²³⁴ Although it may appear impractical to establish IDV courts in rural areas or small communities, these areas are often serviced by single judges, who would be well placed to implement a one judge/one family model, provided they had the requisite unified jurisdiction.

Another jurisdictional issue in the Canadian context relates to Aboriginal peoples and their engagement with the criminal, civil, and family justice systems. Rates of domestic violence against Aboriginal women are continually reported as

230. Canada does not have separate criminal offences for domestic violence, and offenders are typically charged with offences of criminal harassment, uttering threats, assault, and sexual assault. See *Criminal Code*, RSC 1985, c C-46, ss 264, 264.1, 265, 271. Many of these offences are hybrid, allowing the Crown to choose to proceed summarily or by indictment, and in the latter cases, allowing accused to elect to be tried in either provincial or superior courts. If IDV courts were to have jurisdiction over all criminal offences in the DV domain, this would require operation at the superior court level and consequent amendments to the *Criminal Code*.

231. Thompson, *supra* note 228 (quoting Professors Rollie Thompson and Nicholas Bala).

232. On the other hand, implementation of an IDV court at either the provincial or superior court level might avoid the jurisdictional challenges experienced in New York.

233. Office of Strategic Planning, *Unified Family Court Summative Evaluation*, *supra* note 97 at 7-8.

234. Justice interviewee 1, noting the presence of IDV Initiatives (IDVIs) in New York, which incorporate some elements of integration without full case transfer. See also Liberty Aldrich & Robyn Mazur, "Domestic Violence in Rural Communities: Applying Key Principles of Domestic Violence Courts in Smaller Jurisdictions (2005) Center for Court Innovation (dealing with DV rather than IDV courts).

disproportionately high,²³⁵ and Aboriginal men are generally over-represented in the criminal justice system.²³⁶ Although there have been some efforts at developing Aboriginal justice processes,²³⁷ domestic violence charges against Aboriginal peoples are still dealt with in the regular criminal courts, including specialized DV courts in jurisdictions where they exist. Provincial domestic violence legislation likely applies to Aboriginal peoples, although some provisions, including those relating to exclusive possession of the matrimonial home, likely do not apply on First Nations reserves.²³⁸ The state's apprehension of Aboriginal children has been a significant issue for Aboriginal families,²³⁹ and most jurisdictions' child welfare laws now include special provisions relating to Aboriginal children.²⁴⁰ The legal context surrounding domestic violence for Aboriginal families is thus even more complex than for other families. Until Aboriginal peoples are given sovereignty over their own justice processes, these issues will need to be considered when thinking about the application of IDV courts to Aboriginal litigants.²⁴¹

As noted above in Part I, Toronto has the only IDV court in Canada at present. The Toronto IDV court hears some family law matters in addition to summary conviction criminal charges related to domestic violence.²⁴² It commenced operations in June 2011 as a two-year pilot study. According to Justice Geraldine Waldman, who was involved in the start-up of the court, the court was modeled

235. See e.g. Statistics Canada, *Family Violence in Canada 2011*, *supra* note 3 at 11.

236. See e.g. David Milward, *Aboriginal Justice and the Charter: Realizing a Culturally Sensitive Interpretation of Legal Rights* (Vancouver, BC: UBC Press, 2012) at 3.

237. *Ibid.*

238. See Busby, Koshan & Wieggers, *supra* note 48 at 217-219. But see *Tsilhqot'in Nation v British Columbia*, 2014 SCC 44 (holding that the interjurisdictional immunity doctrine no longer applies in the case of Aboriginal peoples, such that provincial laws will be applicable unless they violate section 35 of the *Constitution Act, 1982*). See also the *Family Homes on Reserves and Matrimonial Interests or Rights Act*, SC 2013, c 20 [*Family Homes on Reserves Act*] (providing for civil protection orders as well as matrimonial property division on First Nations reserves). The Act received Royal Assent on June 19, 2013 and will come into force by order of the Governor in Council. See *Family Homes on Reserves Act*, s 56.

239. See Marlee Kline, "Child Welfare Law, 'Best Interests of the Child' Ideology, and First Nations" (1992) 30:2 Osgoode Hall LJ 375; Patricia Monture, "A Vicious Circle: Child Welfare and the First Nations" (1989) 3:1 CJWL 1.

240. See e.g. *Child and Family Services Act*, RSO 1990, c C.11, s 1(2).

241. For further discussion, see Dalley, *supra* note 88 at 17-18.

242. Only family law matters under the *Children's Law Reform Act* and *Family Law Act* are heard by the Toronto IDV court. See Ontario Court of Justice, "Practice Direction Regarding the Integrated Domestic Violence Court at 311 Jarvis Street, Toronto" (26 April 2013), online: <<http://www.ontariocourts.ca/ocj/legal-professionals/practice-directions/toronto-region/integrated-domestic-violence-court/>> [Ontario Court of Justice, "Practice Direction"].

after IDV courts in jurisdictions including New York and, in particular, Buffalo.²⁴³ The court was developed in consultation with a community board and has as its goals “better informed judicial decision making,” “elimination of conflicting orders,” “consistent handling of multiple matters relating to a single family by judges who are knowledgeable in the area of domestic violence,” “connection to social services and other community resources,” promotion of “efficiencies for both the system and the family by reducing the number of appearances in court and trips to court,” development of “expertise within the court,” and the creation of “services and resources designed specifically for the unique needs of the client base.”²⁴⁴ Toronto does not have a unified family court; the IDV court operates at the provincial court level (the Ontario Court of Justice) and does not have jurisdiction to handle divorce, matrimonial property, or child protection matters.²⁴⁵ Litigants are eligible for the Toronto IDV court if they have concurrent criminal and family litigation involving domestic violence. Originally, consent of both parties was required for transfer to IDV court, but that element has been removed; consent of the family court case management judge is required where that judge has been actively involved in the case prior to the proposed transfer.²⁴⁶

An evaluation of the Toronto IDV court is underway, built into the pilot aspect of the court.²⁴⁷ In the meantime, it is useful to consider what my case study of Manhattan’s IDV court indicates about the benefits and challenges of implementing IDV courts in the Canadian context. Since the Toronto IDV court model is different from that in New York and in light of the absence of unified court jurisdiction in Toronto, my case study may yield different insights than does the ongoing Toronto evaluation.

In terms of benefits, the reduction of inconsistent court orders and increased coordination in civil, criminal, and family matters provide a clear advantage over the fragmented approach, and one that is supported by my case study and the 2012 evaluations of New York IDV courts. Increased coordination and reduction of inconsistency have been among the major objectives of IDV courts, and appear to be realized in practice. To the extent that conflicting orders cause confusion, multiply court appearances, and threaten the safety of victims and children, their reduction is an important impact of the New York IDV courts

243. Waldman, *supra* note 88 at 2.

244. *Ibid* at 3-4.

245. See Ontario Court of Justice, “Overview,” *supra* note 20. Ontario’s *Family Law Act*, RSO 1990, c E.3, s 46, allows the Ontario Court of Justice to make civil restraining orders but it is unclear from the material available if Toronto’s IDV court exercises this jurisdiction.

246. Ontario Court of Justice, “Practice Direction,” *supra* note 242.

247. See Waldman, *supra* note 88 at 4.

and one with access-to-justice benefits. There are alternative ways of responding to the problem of inconsistent orders and lack of coordination, such as better communication systems between criminal and family courts at different levels²⁴⁸ and case management in a one judge/one family model within particular courts.²⁴⁹ However, these alternatives may be subject to the initiatives of individual judges and do not involve the same level of cross-system coordination that IDV courts provide.

Another benefit of IDV courts supported by my case study is the enhanced access to justice flowing from more coordinated court appearances in a single location with a consistent judge. This potential benefit can only be fully realized in jurisdictions with unified court systems that exercise jurisdiction over all of the matters they have power to deal with. Otherwise, litigants will still be required to appear in different courts with different judges, with the consequent possibilities of delay, inconsistency, confusion, and court harassment. My interviews and the recent IDV court evaluations from New York indicate that there may also be challenges in ensuring access to justice in IDV courts, including access to understandable information about the litigation process, the need for effective legal representation and translation, protections of privacy and security, more attention to the needs of members of marginalized groups, and monitoring of the use of the courts by such groups. There is also a need to be mindful of IDV courts' potential to introduce longer times to disposition, which may undermine access to justice goals. Implementing a model with an intake component may offset this concern to some extent and may deal with some of the uncertainties litigants face in the transfer process.²⁵⁰ Still, if intensive judicial monitoring is to be undertaken, which is one of the hallmarks of IDV courts, longer engagements with the court may be inevitable.

Another beneficial aspect of IDV courts confirmed by my interviews is the court's ability to deal with multiple issues and grant multiple remedies in one

248. See *e.g.* Pamela Young, *An Informed Response: An Overview of the Domestic Violence Court Technology Application and Resource Link* (Center for Court Innovation, 2011) (describing the New York courts' use of technology to coordinate the response to domestic violence, albeit in the criminal sphere alone); PLEASE CHECK Donna Martinson, "Judicial Coordination of Concurrent Proceedings in Domestic Violence Cases," online: FREDA, <http://fredacentre.com/wp-content/uploads/2012/11/MartinsonPaper_5e.pdf> (describing strategies for judicial coordination between courts).

249. Bala, Birnbaum & Martinson, *supra* note 49 (focusing on case management in family courts).

250. Epstein argues that, "until intake and case processing of civil and criminal cases are integrated into a single, coordinated system, the problems inherent in today's justice system cannot be resolved effectively." Epstein, *supra* note 14 at 28.

setting, based on more holistic information about the litigants and their families, and on expertise in domestic violence issues. It is difficult to envision how this particular benefit—which also relates to access to justice in terms of fairness of outcomes—could be replicated in a system that maintained a fragmented approach to domestic violence. At the same time, increasing the court's access to information may have unintended negative consequences. My interviews and the recent IDV court evaluations in New York indicate that this is a particular issue for offenders but may also have negative impacts on victims. This concern was raised in comments on the proposal for an IDV court in Toronto as well.²⁵¹ A related challenge is the pressure to resolve and settle matters quickly, which may affect substantive outcomes. Jurisdictions intending to implement IDV courts should be vigilant about these potential consequences if they threaten due process and outcomes (as opposed to curtailing abuses of process). Judicial training may be one mechanism for responding to these concerns.

Other possible challenges arising from the implementation of IDV courts that were identified in my case study include the need for adequate expertise and continued training of judges, court staff, and lawyers in criminal, civil, and family matters, and on domestic violence issues more broadly, which may be a problem if there is a lack of adequate resources. The tendency of Canadian DV courts to use rotating rather than dedicated judges would also need to be addressed, as the IDV court model is by definition a one judge/one family approach. The potential problems identified in the literature and in my interviews with segregating domestic violence issues into a single court are also a concern, which could be addressed in part by ensuring adequate training on domestic violence issues in other courts.

Further research is required on the impact of IDV courts on police, prosecution, and child protection authorities' handling of domestic violence cases. My interviews indicated that this impact—examination of which is critical in light of the unintended consequences flowing from earlier justice system reforms—is not being measured in New York. The recent IDV court evaluations confirm this assessment. Full integration of all domestic violence matters would allow judicial oversight of the actions of these state actors to determine whether the cases and issues ending up before IDV courts are there appropriately, or are the result of, for example, improper dual arrests or overzealous child welfare authorities. The literature documenting the adverse impact of unintended consequences of earlier reforms on marginalized groups provides another reason to measure the impact of IDV courts on such groups. This literature raises

251. Members against violence against women sector, *Comments, supra* note 88 at 3-4.

important issues of state accountability and systemic integration, which should be addressed by IDV courts.

In terms of systemic and societal benefits, my case study suggests that IDV courts have had some impact, especially in their holistic approach to domestic violence. This approach sends the important message that domestic violence has multiple impacts that cross typical justice system boundaries. More could be done, however. To be truly impactful, IDV courts should develop ways to engage with the broader community on domestic violence issues to ensure as much systemic impact as possible and to prevent the potential for IDV courts to dilute the unique roles played by the different courts in a pluralistic system. Community engagement should involve groups working on issues of violence against women and include representation from members of marginalized groups. Although jurisdictions such as Ontario and British Columbia have other initiatives in place to provide public education and awareness on domestic violence issues,²⁵² such initiatives could be strengthened through the involvement of DV and IDV court personnel, who can take a leadership role in this area given their expertise and power. This would serve to reinforce the symbolic and educative roles of the justice system and help to avoid the potential privatizing effects of IDV courts.²⁵³

At the same time, it must be recognized that there is only so much that courts can do to respond to domestic violence. We must not lose sight of the need for broader social and economic change and resources to respond to the root causes and impacts of domestic violence. Overall, although IDV courts and the one judge/one family model might have many benefits in Canada, it is important that these courts are not seen as a one-stop answer to domestic violence.

252. Ontario Women's Directorate, *Domestic Violence Action Plan Progress Report (Update May 2012)* at 9-10, online: <http://www.women.gov.on.ca/english/resources/publications/dvap2012/DVAPReport_May2012_eng.pdf>; Katherine R Rossiter, *Domestic Violence Prevention and Reduction in British Columbia (2000-2010)* (Vancouver: Justice Institute of BC, 2011) at 30-33,

253. See the discussion above at text and accompanying footnotes 73 and 83.

APPENDIX

JUSTICE/COMMUNITY STAKEHOLDER INTERVIEW QUESTIONS MANHATTAN IDV COURT²⁵⁴

1. Describe your agency and/or organization and what services you provide for those affected by domestic abuse.
2. How is your agency connected/affiliated with the Integrated DV Court?
3. In your view, why initially did the Integrated DV Court develop?
 - What problems was it developed to address?
 - What challenges (if any) did it face in getting up and running?
 - Have there been any ongoing challenges or problems?
 - What has been working well?
1. In general, how would you compare the performance of the justice system before and after the creation of the Integrated DV Court? How has it made a difference? Did it make a difference in:
 - identifying domestic violence as a societal problem
 - police response to domestic violence
 - faster processing of domestic violence cases
 - access to justice advantages
 - breadth of remedies
 - avoidance of inconsistent orders / filling gaps
 - case outcomes
 - impact for victims
 - *impact for offenders*
 - *use of specialized personnel*
 - *response to needs of diverse populations*
 - *sector collaborations*
 - *increased reporting of domestic violence*
 - *recidivism*

254. The interview questions are based on those used in an evaluation of Calgary's DV court in which I participated. See Tutty et al, *Calgary DV Court Evaluations*, *supra* note 59 at Appendix 5.

1. Do you have suggestions about how the Integrated DV Court could improve its response to domestic abuse?
2. Do you have other comments or concerns about the Integrated DV Court?
3. Do you have any additional comments or concerns about the broader justice system response to domestic violence?

Thank you for your time.