Theme: Legal Services and Criminal Justice

Theme Description

Women fleeing domestic violence have to manage multiple and interrelated legal issues in criminal, family and child protection systems. The criminal law is a branch of public law and is primarily concerned with protecting the safety of individuals. Family law is a branch of private law designed to regulate the rights and responsibilities of family members upon the breakdown of a family unit. The child protection system is often referred to as part of the family justice system but involves government-initiated proceedings focused on the safety of children.

What are the Issues or Barriers?

- Legal systems across Canada are costly, inaccessible and fragmented. They are complicated, confusing, and extremely difficult to navigate for women who are fearful for their safety and/or traumatized by their abuse.
- Different justice and legal systems that interact with victims of family violence often operate in silos, leading to missed opportunities to share information, make appropriate referrals and work in collaboration to avoid duplication of services and re-victimization.
- There is lack of communication between Provincial Court Criminal Division, Provincial Family Court and Court of Queen's Bench - resulting in contradictory orders and conditions that create difficulties in interpretation and enforcement and put women and children at risk. Since many individuals within the court system are unrepresented, courts cannot always rely upon counsel to bring relevant information about parallel proceedings to their attention.
- Offenders use self-representation as a way of maintaining their control/abuse.
- Because they are facing criminal charges, offenders are more likely to get access to legal aid than their victims.
- Indigenous communities are disproportionately impacted by domestic violence, and are more likely to also be re-victimized when accessing the justice system.
- Issues exist within the bail processes currently used in Alberta, sometimes resulting in release of individuals who put women and children, the police officers as well as community in general at risk.
- There is some inconsistency among police, Crown and the courts about how Protection Orders are enforced.

What Works?

- Legal systems must be improved in order to better address domestic violence.
- Several options are proposed for consideration with respect to communication between different levels of court: develop information sharing protocols among court systems; unify different types of court; create standardized conditions for family violence cases; and develop a court order registry or a database.
- A collaborative community/cross ministry gender-based training effort could coordinate training and information sharing opportunities within the justice system including but not limited to police, child intervention, community corrections, crown prosecutors, court clerks and judges.

- There is a need for coordination not only among the criminal, family and child protection systems, but also among the justice sector and other sectors such as social services, community services, shelters, addictions and mental health, supporting provision of wrap-around services and supports.
- Promising practices with respect to bail hearings encourage graduated bail conditions that are sensitive to changing risks and the accused's family matters; sharing information through the use of a Habitual Offender Management program; and cross-jurisdictional coordination of bail proceedings.
- Development of protocols is recommended guiding the use and enforcement of Protection Orders, including consideration of integrated Case Management options, and developing and using of court order databases.
- Domestic violence courts can provide a range of specialized supports to victims, child witnesses and offenders within the criminal justice system and make links to the child protection and family law systems.
- Particular attention should be paid to Indigenous laws, values and dispute resolution practices, especially in light of the disproportionate impact of violence on Indigenous women and children.
- Access to inexpensive or free legal services for victims could be enhanced by expanding and resourcing legal aid services across Alberta.

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