



Caught in the Middle

Children's Involvement in the Court Process
as it Relates to Intimate Partner Violence

Final Report

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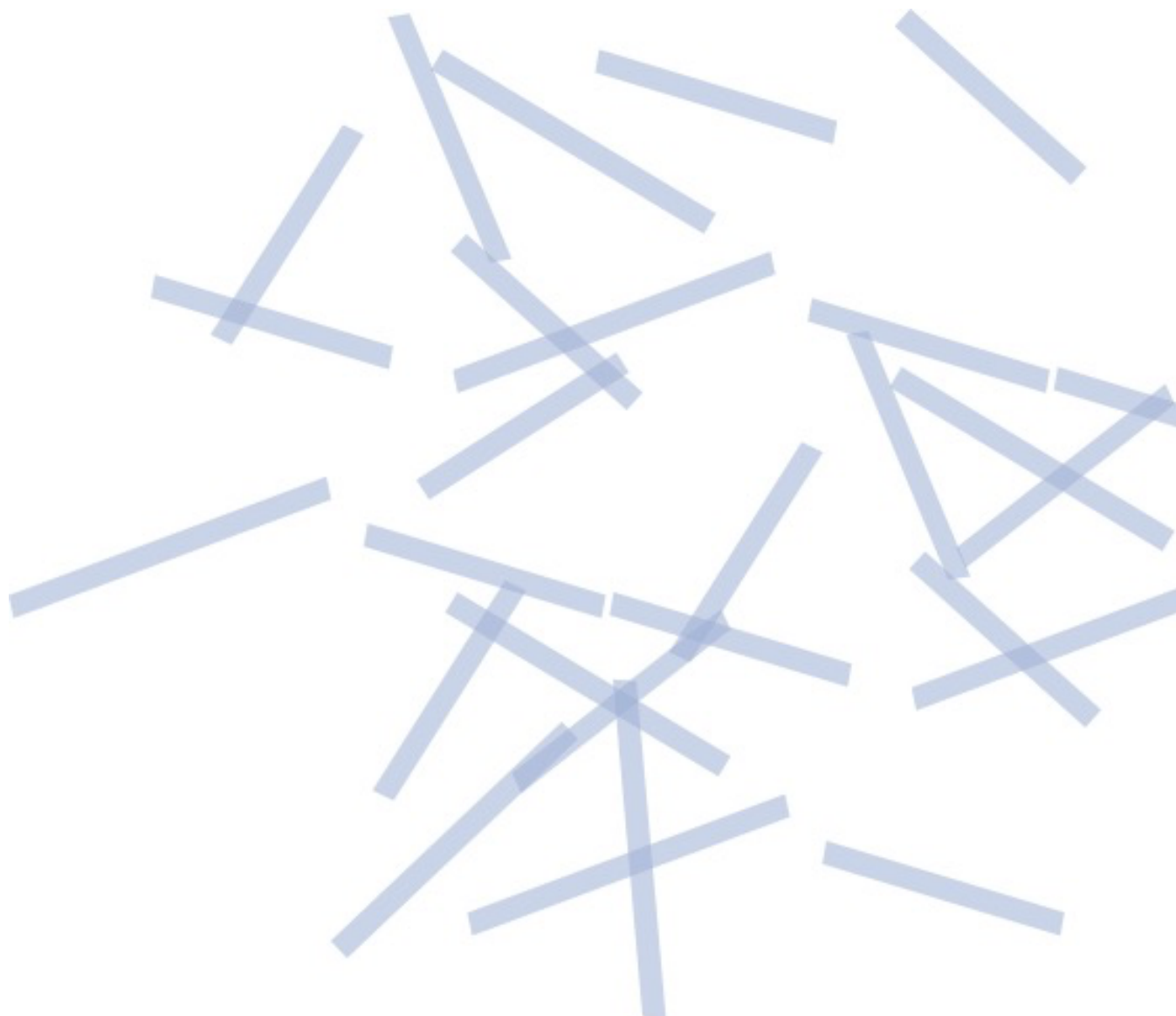
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Executive Summary

Purpose

The purpose of this study was to examine the intersection of criminal and family courts in cases of intimate partner violence (IPV) and the impact of these processes on children in Manitoba. The study addressed the following research questions:

- 1) How is the problem of children's exposure to IPV recognized and addressed within the Manitoba criminal and family court systems?
 - a. How many cases of IPV involving children are processed in Manitoba by criminal and family courts?
 - b. What legislative changes, policies, programs, and services have been developed in Manitoba to respond to the issue of children's exposure to IPV and criminal and family court proceedings?
- 2) How does the intersection between the criminal and family court systems impact the safety and general wellbeing of children?
- 3) How are children's interests and wellbeing taken into consideration in criminal and family court proceedings?
 - a. What processes, policies, and/or mechanisms exist to ensure children's best interests and wellbeing?
 - b. How are the interests and wellbeing of certain groups of children (i.e., newcomer/refugee, Indigenous, children living in Northern/rural/remote areas) taken into consideration?
- 4) What are the experiences of children affected by IPV when their families are involved in criminal and family court proceedings?
 - a. What are the unique challenges for children?
 - b. How do young adults view their experiences (when they were children) with the criminal/family court systems (positive, negative, or a combination?).
 - c. What is the impact of the decisions/arrangements that were made over time?
- 5) What specific challenges exist for children living in Northern, rural, or remote areas of the province? Do certain groups of children (i.e., newcomer, Indigenous) have unique experiences that need to be considered?
- 6) What policy and practice changes need to occur so that children's interests and wellbeing are better represented in criminal and family court proceedings in cases involving IPV (i.e., what recommendations can be developed)?
 - a. What types of programs, policies, and practices do criminal and family court personnel think would be (un)helpful?
 - b. What changes to current approaches do community stakeholders (i.e., Violence Against Women (VAW) advocates, shelter outreach programs, counselling agencies, etc.) deem necessary to better meet the needs of children and families affected by IPV who are involved in the criminal and family court systems?
 - c. What approaches do parents and families who have been embroiled in IPV court cases see as helpful or unhelpful for their children?

- d. What promising policy and practice approaches exist in other jurisdictions (within Canada and internationally) that can be considered for use in Manitoba?

Description of the Participants

Criminal and Family Court Personnel (14 interviews)

- 21% of the interviews were conducted with service providers who identified as working in an area that was rural, remote, or Northern
- Criminal and family court personnel worked in a variety of sectors that included:
 - Victim services
 - Legal services
 - Defense counsel
 - Law enforcement
 - Judges
 - Other legal professionals

Community Agency Staff (10 interviews)

- 20% of the interviews were conducted with service providers who identified as working in an area that was rural, remote, or Northern
- Community agency staff worked in a variety of sectors that included:
 - Access/exchange agencies
 - Conciliation programs
 - Shelters
 - Resource centres
 - Advocacy agencies
 - School social worker programs

Parents (20 interviews)

- 25% of parents indicated that they were residing in a rural, remote, or Northern location and 75% of parents indicated that they were residing in an urban location
- 90% of the participants identified as female and 10% identified as non-binary
- 45% of the parents reported European/White descent; 45% were Indigenous; 5% were East Asian; and 5% were Black

Young Adults (3 interviews)

100% of young adults indicated that they were residing in an urban location
two young adults identified as female, and one identified as male
two young adults identified as Indigenous, and one identified as bi-racial

Findings

The interviews with criminal and family court personnel, community agency staff, parents, and young adults were analyzed using a generic or thematic approach (Marshall & Rossman, 1989). Eight main themes were identified in the study:

Nature of Relationship

Parent participants spoke at length about their experiences of IPV. Several types of violence were discussed by participants and often, these forms of violence co-occurred with one another. Parents also discussed the reasons for leaving their relationship and detailed the challenges associated with this process.

Gaps and Challenges in the Judicial Response

Participants identified several gaps and challenges related to the judicial response toward families involved in both the criminal and family court systems in custody and access cases involving IPV.

Consideration of IPV & Response Toward the Issue

Many participants spoke about the recognition of IPV in the family court system and the ways in which this information was used, or not used, in determining custody, access, and exchange.

Lack of Coordination between Criminal and Family Court Systems

A reoccurring issue discussed by community agency staff, criminal and family court personnel, and parents was the lack of coordination between the criminal and family court systems. Participants detailed the challenges of navigating separate court systems when dealing with custody and access cases involving IPV, as well as difficulties and issues pertaining to protection orders in these cases.

Barriers to Seeking Help

Participants identified several barriers that exist in relation to seeking help for parents and young adults in custody and access cases involving IPV. Help-seeking behaviours were impacted by several factors including financial challenges, a lack of resources, and the fear of harm or abuse—as well as unforeseen challenges, such as the COVID-19 pandemic.

Impact on Survivors

The impact of the criminal and family court systems, particularly at the point where they intersected, was a central focus of the parent, criminal and family court personnel, and community agency staff participant narratives. Involvement with the court systems was a decidedly negative experience for many parents who characterized their experiences as stressful, traumatizing, and frustrating. In many instances, involvement in the court system resulted in negative outcomes for parents, including poor mental health, addictions, discrimination, injury/trauma, financial stress, and revictimization through the court systems.

Issues Related to Children

Participants identified several issues relating to children's involvement in the criminal and family court systems in custody and access cases involving IPV. Such issues included the impact of violence and trauma exposure on children, as well as positive and negative practices regarding children's involvement in court processes.

Positive Practices

The participant narratives highlighted numerous positive practices that exist in relation to judicial and service provision responses toward families navigating the criminal and family court systems in cases of IPV. These included collaboration between agencies, various supports and services, and reforms within the family court system.

Recommendations

This study generated several recommendations for improving the response towards families navigating the criminal and family court systems in IPV cases. Recommendations have been grouped into the following categories:

1. Expand and Develop Existing Resources and Services
2. Increased Education and Awareness
3. Address Barriers for Marginalized Communities
4. Improve Court System Responses
5. Increased Collaboration between the Criminal and Family Courts
6. Ensure the Best Interests of the Child



Introduction

Purpose

The purpose of this project was to examine the intersection between criminal and family courts in Manitoba and the impact on children who are exposed to violence in the home. The project investigated the processes and structures that are in place that either facilitate or exclude children's interests and circumstances from being considered in cases that involve both the criminal and family courts. The project explored how these processes and structures impact children's safety, protection, and well-being. Specific study objectives were to:

- 1) Establish a foundational understanding of how criminal and family courts in Manitoba respond to children who are exposed to IPV.
- 2) Understand how children who have been exposed to IPV are involved in family and criminal court proceedings.
- 3) Investigate the ways in which the criminal and family court systems collide/intersect and the impact on children.
- 4) Identify current processes/policies that exist that ensure children's interests and well-being are considered in family and criminal court proceedings.
- 5) Identify gaps/deficits/inconsistencies within criminal and family courts in Manitoba.
- 6) Investigate promising and/or advanced policy and practice approaches to children's exposure to IPV occurring in criminal and family courts within Canada and internationally.
- 7) Develop tangible and practical recommendations for effective policy/practice development and implementation that can improve criminal and family court responses to children who are exposed to IPV.
- 8) Provide recommendations for future research in the area.

Significance

Although legislation exists in Canada, and specifically in Manitoba (i.e., *Family Maintenance Act*), little is known about how current legislation plays out in practice and the impact on victims of IPV and their children. Anecdotal evidence suggests that the intent of recent legislative changes to include specific consideration of IPV is not actually being met with sufficient changes/improvements in practice. The study investigated these changes, along with ways the current system of family and criminal courts handles cases of IPV. More importantly, we explored the impact on families and children, so that existing policies and practices can be carefully assessed, and new, more effective approaches can be developed. Until we know more about the nature of these court processes and practices, including their impact, these issues cannot be effectively understood or addressed. Not only is the study relevant in Manitoba, but in the other Prairie Provinces as well, where reported rates of IPV are the highest in the country. As such, the study serves as a template to conduct similar research in these provinces. Further, the study outcomes will be relevant and applicable to the needs of all criminal and family court systems across Canada, as well as to community stakeholders who work with families and children affected by violence.

Background

In Canada, intimate partner violence (IPV) is a troubling reality. Recent statistics reveal that rates of IPV in the country are alarmingly high and may be increasing. Rates of IPV have decreased over the long term (dropping 12% from 2009-2018); however, there was a 2% increase between 2017-2018, making it the highest rate recorded in Canada since 2012. From 2017 to 2018, police-reported cases of IPV jumped from 96,000 to 99,000—marking a 2% increase (Conroy et al., 2019). This number increased again in 2019, when 107,000 police-reported incidents of IPV were recorded (Public Safety Canada, 2021). According to Conroy and colleagues (2019) these numbers account for a staggering one-third of all police-reported violent crime in Canada. However, while these statistics are indeed shocking, they do not truly reflect the pervasive nature of the problem. This is because an estimated seven out of 10 incidents of IPV are never reported to the police—meaning that IPV is a much larger problem than these statistics reveal (Burczycka & Conroy, 2018).

The issue has particular significance in the Prairies, where rates of IPV are consistently high in comparison to other provinces (Burczycka & Conroy, 2018; Sinha, 2013). In 2018 Manitoba recorded one of the highest rates of IPV of all the provinces, with 592 victims/ survivors per 100,000 people (Conroy et al., 2019). Moreover, higher rates of violence have been recorded within certain geographic regions of the Prairie provinces. In 2019, rates of violence against young women and girls were highest in the Northern areas of Manitoba, with 9,025 victims/survivors per 100,000 people (Rotenberg, 2019). At these rates, violence is approximately five to six times higher in the Northern regions than their southern counterparts (Rotenberg, 2019). These findings are consistent with previous examinations concerning the geographical distribution of IPV in Canada, finding that violence in rural, remote, and Northern areas of the country remains particularly high (Conroy et al., 2019).

IPV is especially concerning for women as it accounts for the most common form of violence perpetrated against women in Canada. Victims of IPV made up 30% of all victims of police-reported crime in 2018, and women were overrepresented as 79% of all IPV victims. In total, 45% of all victims of police-reported crime in Canada aged 15-89 were women who had experienced IPV, making it the most common form of violence women experienced.

Also troubling is children's exposure to this type of violence. It is unclear how many victims of IPV are mothers but the largest proportion of women who are abused are of child-bearing age (Statistics Canada, 2019). According to the most available statistics, in 2011 there were 9.8 million mothers¹ in Canada, and of these 4.1 million had children under the age of 18 (Statistics Canada, 2012). Children's exposure to IPV occurs in a variety of ways including directly seeing or hearing the violence of one parent against another, indirectly witnessing violence by seeing injuries or hearing about what has happened to their parent, or witnessing police intervention (Sinha, 2012). Children may also see or hear conflict and violence during visits or access exchanges or be used by an abusive parent as a form of abuse by undermining the other parent or using children to relay messages and threats (Ahlf- Dunn & Huth-Bocks, 2016).

Canadian data indicates that over half (52%) of victims of spousal violence reported that their children heard or saw the assaults (Sinha, 2012). Further, exposure to IPV is now the most common form of substantiated child maltreatment investigated by Canadian child protection services authorities – of an estimated 85,440 substantiated cases, 34% (or 29,259 cases) involved children's exposure to IPV (Trocmé et al., 2010). Separation of the parents does not reduce the likelihood of children being exposed to IPV; instead, research suggests that children are more likely to be present during violent episodes directed at previous spouses or partners than current spouses or partners (Sinha, 2012). There is a consensus that exposure to IPV (including post-separation assault) is detrimental to children's wellbeing and can place them at risk for negative physical, emotional, behavioural, cognitive and social developmental outcomes (for example see Kitzmann et al., 2003; Levendosky et al., 2013; McTavish et al., 2016). While the negative impact of children's

¹ Includes biological, adoptive, and stepmothers.

exposure to IPV is well documented, much less is known about how the intersection between criminal and family courts may potentially contribute to negative outcomes.

In cases of IPV, multiple court systems are often involved, creating a complex, costly, and time-consuming process for the involved parties and their children. Navigating the criminal and family court systems at the same time can be challenging as these sectors do not have the same mandates or procedures (Croll, 2005). These differences can lead to delays and conflicting orders and can allow for dangerous situations to arise. For example, criminal court may restrict a parent from access to their child while family court demands it. This inconsistent consideration of children's interests can force them and their parents into remaining contact with the perpetrating parent, placing them at an increased risk of experiencing more violence (Cashmore, 2011).

Over the last decade, legal advocates and advocates for both abused women and their children have demanded better integration between family and court systems in cases of IPV, arguing that these systems do not meet their best interests. Despite recent changes made to Canada's *Divorce Act* (Bill C-78) that requires courts to consider the presence of family violence, including children's direct or indirect exposure to violence, in divorce, custody, and child support cases, there is anecdotal evidence to suggest that these issues are not being considered in the court process (May, 2018).



Methodology

Research Questions

This was a Manitoba-based study that examined the intersection of criminal and family courts in cases of IPV and the impact of these processes on children. The study addressed the following research questions:

- 1) How is the problem of children's exposure to IPV recognized and addressed within the Manitoba criminal and family court systems?
 - a. How many cases of IPV involving children are processed in Manitoba by criminal and family courts?
 - b. What legislative changes, policies, programs, and services have been developed in Manitoba to respond to the issue of children's exposure to IPV and criminal and family court proceedings?
- 2) How does the intersection between the criminal and family court systems impact the safety and general wellbeing of children?
- 3) How are children's interests and wellbeing taken into consideration in criminal and family court proceedings?
 - a. What processes, policies, and/or mechanisms exist to ensure children's best interests and wellbeing?
 - b. How are the interests and wellbeing of certain groups of children (i.e., newcomer/refugee, Indigenous, children living in Northern/rural/remote areas) taken into consideration?
- 4) What are the experiences of children affected by IPV when their families are involved in criminal and family court proceedings?
 - a. What are the unique challenges for children?
 - b. How do young adults view their experiences (when they were children) with the criminal/family court systems (positive, negative, or a combination?).
 - c. What is the impact of the decisions/arrangements that were made over time?
- 5) What specific challenges exist for children living in Northern, rural, or remote areas of the province? Do certain groups of children (i.e., newcomer, Indigenous) have unique experiences that need to be considered?
- 6) What policy and practice changes need to occur so that children's interests and wellbeing are better represented in criminal and family court proceedings in cases involving IPV (i.e., what recommendations can be developed)?
 - a. What types of programs, policies, and practices do criminal and family court personnel think would be (un)helpful?
 - b. What changes to current approaches do community stakeholders (i.e., Violence Against Women (VAW) advocates, shelter outreach programs, counselling agencies, etc.) deem necessary to better meet the needs of children and families affected by IPV who are involved in the criminal and family court systems?
 - c. What approaches do parents and families who have been embroiled in IPV court cases see as helpful or unhelpful for their children?
 - d. What promising policy and practice approaches exist in other jurisdictions (within Canada and internationally) that can be considered for use in Manitoba?

Methods

Six sources of data were utilized in this research project:

- 1) Interviews with criminal and family court personnel were conducted with 14 participants in Manitoba who had experience providing support to individuals involved in the court systems in cases of IPV. Due to the COVID-19 pandemic, interviews were conducted over the phone.
- 2) Interviews with community agency staff were conducted with 10 participants in Manitoba who had experience providing supports to individuals who had experienced IPV and/or individuals who were navigating the court systems. Due to the COVID-19 pandemic, some interviews were conducted over the phone.
- 3) Interviews with parents were conducted with 20 participants from Manitoba who identified as having navigated the criminal and family court systems, experienced or perpetrated IPV, and had child(ren). Due to the COVID-19 pandemic, interviews were completed over the phone.
- 4) Interviews with young adults (18-24 years) were conducted with three participants from Manitoba who identified as having parents who navigated the criminal and family court systems in cases of IPV. Due to the COVID-19 pandemic, interviews were conducted over the phone.
- 5) An environmental scan of available services and supports for individuals navigating the criminal and family court systems in cases of IPV was developed. The research team consulted with community agencies, members of the Research Advisory Committee, and conducted an extensive online search to identify agencies suitable for inclusion in the scan. The scan organizes the services and supports using the following categories: social services (support lines, shelters/housing, community/social supports, men's services), criminal justice services, legal services, and law, legislation, and policy. Name and contact information are included for each agency along with a short description of available supports.
- 6) A legal scan of family law issues and IPV in Canada with a specific focus on parental alienation was completed.

Participants and Procedures

An ethics application was submitted to the Psychology/Sociology Research Ethics Board (REB) at the University of Manitoba. The application underwent a full board review and received final approval on July 4, 2019. Several amendments have been submitted to the University of Manitoba REB since this time. These amendments pertained to the interview guides and data collection within the context of the COVID-19 pandemic.

This study employed purposive sampling to recruit interview participants. Parents and young adults were recruited primarily through social media posts, newspaper ads, and community agencies advertising the study (posters, emails, social media posts). A list of possible participants for the criminal and family court personnel and community agency staff interviews was identified in consultation with the research advisory committee. The research coordinator followed up with the identified agencies regarding participation in the study.

Criteria for inclusion in the study included the following:

Criminal and Family Court Personnel

- 18 years of age or older
- Provides services to individuals navigating the court systems in cases involving IPV
- Works in Manitoba, Canada

Community Agency Staff

- 18 years of age or older
- Provides services to individuals in cases of IPV
- Works in Manitoba, Canada

Parents

- 18 years of age or older
- Resides in Manitoba, Canada
- Involvement in the criminal court system related to IPV
- Involvement in the family court system related to custody/access/exchange

Young Adults

- Between the age of 18 – 24 years
- Resides in Manitoba, Canada
- Parents were involved in the criminal and family court systems related to IPV

A total of 47 interviews were completed for the project, the specific breakdown is as follows:

Population Group	Number of Interviews
Criminal and Family Court Personnel	14
Community Agency Staff	10
Parents	20
Young Adults	3

Written consent was obtained from all of the participants. Parent and young adult participants were provided with a \$40 honorarium. Criminal and family court personnel and community agency staff were not provided with an honorarium because their interview took place during their workday.

All interviews were conducted using a semi-structured interview guide that included a combination of open-ended and closed-ended questions. The interview guides have been included as Appendices A (criminal and family court personnel), B (community agency staff), C (parents), and D (young adults). The interviews were digitally recorded and transcribed verbatim. The transcripts were then uploaded into Dedoose (a qualitative analysis software program). Research assistants coded the data, meeting with the Research Coordinator on a regular basis to discuss their work, refine the codes/concepts, and identify emerging themes in the data. Thematic analysis was used to identify the overarching ideas within the narratives of criminal and family court personnel, community agency staff, parents, and young adults.

Limitations

There are three primary limitations of this study. The participants in this study were self-selected, meaning that they chose to take part in the interview process. The narratives of criminal and family court personnel,

community agency staff, parents, and young adults may not be representative of the experiences of other individuals who also identify with these groups. In other words, the results of this study are not generalizable to the broader population.

Participant recruitment was a challenging process, particularly within the context of the COVID-19 pandemic. Participant recruitment spanned a two-year period from 2019-2021. Recruitment efforts including the following: social media posts, newspaper advertisements, connecting with community agency for assistance, and requesting members of the Research Advisory Committee send out the study information. Participant recruitment for fathers and young adults was particularly difficult, despite repeated and targeted attempts (i.e., connecting with community agencies, sponsored social media posts) to connect with these populations. No interviews with fathers were undertaken despite our attempts, and we were only able to interview three young adult participants (original target: 10-15 participants).

The COVID-19 pandemic also presented challenges for the interview process. Prior to the pandemic, the interviews were being conducted in-person. However, after mid-March 2020, all interviews were conducted over the phone due to concerns around the virus. The original ethics application had to be revised to reflect the new research plan.



Findings

Interviews were conducted with four demographic groups: criminal and family court personnel, community agency staff, parents (primarily mothers), and young adults. Specific interview guides were developed for each participant group. The interview questions focussed on participant experiences navigating the criminal and family court systems in IPV cases.

Description of the Participants

Criminal and Family Court Personnel (14 interviews)

- Three interviews were conducted with service providers who identified as working in an area that was rural, remote, or Northern
- Participation from the following groups: victim services, defense counsel, law enforcement, judges, other legal professionals

Community Agency Staff (10 interviews)

- Two interviews were conducted with service providers who identified as working in an area that was rural, remote, or Northern
- Participation from the following groups: access/exchange agencies, conciliation programs, shelters, resource centres, advocacy agencies, and school social worker programs

Parents (20 interviews)

- Location
 - Five participants indicated that they were residing in a rural location
 - 15 participants indicated that they were residing in an urban location
- Gender
 - 19 female participants
 - One non-binary participant
- Racial background
 - Nine Indigenous participants
 - Nine European/White participants
 - One East Asian participant
 - One Black participant

Young Adults (3 interviews)

- Location
 - All three participants indicated that they were residing in an urban location
- Gender
 - Two female participants
 - One male participant
- Racial background
 - Two Indigenous participants

- One bi-racial participant

A relative degree of consistency was identified in the narratives of the four participant groups. As such, the data from the interviews (participant quotes) with criminal and family court personnel, community agency staff, parents, and young adults have been presented together in the following sections. Eight main themes were identified:

- 1) Nature of Relationship
- 2) Gaps and Challenges in the Judicial Response
- 3) Consideration of IPV & Response Toward the Issue
- 4) Lack of Coordination between Criminal and Family Court Systems
- 5) Barriers to Seeking Help
- 6) Impact on Survivors
- 7) Issues Related to Children
- 8) Positive Practices

Nature of Relationship

Parent participants spoke at length about their experiences of IPV. Several types of violence were discussed by participants and often, these forms of violence co-occurred with one another. Parents also discussed the reasons for leaving their relationship and detailed the challenges associated with this process.

Types of Abuse

The parent narratives centred on the nature and context of their abusive relationships. Participants discussed many different forms of abuse, including physical, sexual, emotional, psychological, and financial. Other forms of abuse, including stalking/harassment, destruction of property, and coercive control, were also mentioned by participants.

- *Physical Abuse*

13 parents described experiencing physical violence in their relationships. In most instances, participants described multiple incidents of violence, some of which resulted in physical injury.

It was fine at first and then, I don't know when it started... he started to get a little violent, he never really beat me up until that one night then um I don't know. He tried to run me over and then um he cut himself and phoned the police and the police arrested both of us and we both got charged with domestic violence which was dumb, I did nothing. And, I don't know, he was pretty verbally abusive through the whole relationship. Like, it was good at first – I don't know the nature of it really. I don't know it kind of got toxic and then done. (Parent 15)

I said I am leaving I am going back to my place. He didn't like that, so when I opened the door and I didn't know this but he had picked up a two-by-four and had thrown at me and as I was walking away it hit the back of my left calf and I just felt the impact of this thing, I looked down, there was a 2-by-4 there and I looked at the back of my leg it was bleeding. I didn't think anything of it and I just kept going and I was kind of in shock that he did that and then he was mad because I was leaving. (Parent 08)

- *Sexual Abuse*

Three parents discussed sexual abuse in their relationship. In each of these cases, sexual abuse co-occurred with other forms of IPV.

It was very tumultuous there was domestic violence so a lot of physical, mental, emotional, sexual, financial abuse. (Parent 17)

The nature of my relationship with my ex-partner was very toxic. Yeah, toxic, unhealthy and any type of abuse that is, happened. So then talk about financial, emotional, spiritual, mental, sexual. Yeah, it just crossed all of the abuses. (Parent 08)

● *Emotional Abuse*

11 parents described a range of emotionally abuse behaviours, including: gaslighting, blaming, and threats to harm or kill.

My ex-partner then used [the situation] as a means of shifting blame, but also creating an artificial scenario of threat. (Parent 20)

He [abusive partner] stayed away for a bit and came back and apologized or whatever and then basically said it was my fault that I made him do that. So, I should know better. (Parent 08)

We were supposed to go away [on vacation]. And he wanted to sleep more at Christmas so that we didn't get to my family's place for Christmas till later and then he was like, well, we have to get up and go because we couldn't find a place, he blamed me for not finding a dog kennel properly and that kind of stuff for the dog. Then we had to come back and our flight was leaving. And we needed to get stuff for the cat, and it was all my fault because I hadn't got all this stuff together. Then there's just a big fight and I remember like crying in my parents' basement. (Parent 19)

Shortly after our daughter was born, he became, his aggression kind of escalated. He'd always been kind of verbally and emotionally abusive, but he got more aggressive. Like damaging objects, kicking things, he wasn't physical with me yet, but I could see it coming and then we had one kind of blow out where he threatened my life and put his hands on me and I called the police and that was the end of it. (Parent 12)

● *Psychological Abuse*

Seven parents described experiencing psychological abuse by their partners. Types of psychological abuse included manipulation and controlling behaviours.

It was out of a horror movie or like something that was of a fictitious piece that was being re-enacted. Where essentially there was attempts made by my ex-partner to create the illusion of domestic violence between her and myself. Where she had then framed me as the aggressor. (Parent 20)

There was always gonna be that, it was always looming. It was always there. I was very, I was still scared of him and I didn't dare say anything to him. Yeah, it was just that, that energy was still there, it was just there. There's nothing I could do; it was just there, that was my own fear about him. And I think he relished in it, and it was kind of, he enjoyed it, which was very, now that I think back on it, it was pretty sick. He would be smirking at me and stuff like that. Just knowing that he got gotten away with assaulting me. And you know he manipulated me and, now it was like the cherry on the top in fighting me for custody of my daughter. (Parent 08)

My ex-partner, he tried to be very controlling and anytime I tried to do something where I would grow as a person or excel, he would do his best to sabotage it. And this had been the content of our marriage was me basically cleaning up the messes or the self-sabotaging that he did. He could never hold a job for more than two years without causing problems or getting fired and we have to relocate. So, when

this new partner came into light I knew this was over like I was done and it should have been done a long time ago. So, this was my window to get away. (Parent 02)

● *Financial Abuse*

Five parents detailed instances of financial abuse in their relationships. A variety of examples were provided by participants including financial fraud, controlling access to money, and mismanaging household expenses.

Because of the nature of being like “what, you don't trust me” or the presentation of that they controlled the finances of our relationship because of their past experience of being a general manager of a fishing organization, so they had tons of experience in managing payroll and this and the other, so they are more qualified to run the budget of the household. (Parent 20)

Yes, and that's still in the process. I haven't got the updates from it [the financial fraud case], but he did and we were actually together when he did it and we were together for a year later because I didn't know about it. (Parent 06)

Because I was on maternity leave, I didn't have the means to leave. He definitely used that time to control me. Control me with, we didn't have money to put toilet paper in the bathroom. But yet he would still have money for his cigarettes, driving around and his alcohol. (Parent 14)

● *Stalking/Harassment*

Five parents indicated that their abuse experience included stalking and harassment. Participants detailed instances of harassing phone calls, being followed, and repeatedly showing up at the victim's place of work/education/residence.

There was quite a few times he came to my, to my house and he would come there with a flashlight, like one of those [inaudible; 22.57] light and flashing it in the window. And once, we didn't know what that was at first, we thought that it was the neighbors, and then the one time I just got fed up and open that window really fast, the curtain, he was standing there and he got caught. We called the police, but he was gone by then. And my daughter, how many times have we put up with this before we actually opened the blue curtain, because we thought it was the neighbors because they had bad kids. And, now I'm thinking, you know at least six times he must have been stalking my house. (Parent 18)

So, as I'm driving back to get my daughter, probably about a good hour and a half drive. He was calling nonstop and I wasn't answering so in that time span there was over 52 calls. And my phone documented all of this. (Parent 02)

● *Destruction of Property*

Three parents described instances where their property had been destroyed by their abusive partner/ex-partner.

He had eyes on the home at all times. Like my comings and goings? So, I yeah, I did not feel safe and then when he breached again it was, you know, smashing up the house window, damaging a vehicle, uttering threats. (Parent 17)

[He committed] violence against our property. Like the walls being smashed or the doors being hit down. Or one time he literally tried to get out the front door handle. He has thrown rocks through the windows. (Parent 04)

● *Coercive Control*

More than half of the parent participants reported experiencing coercive control in their relationship. These experiences were characterized by isolation, controlling behaviours, and limiting the victim's independence.

I was made to feel like everything was always my fault. And then when I had my three jobs, he started questioning why I was working so much and that I should spend more time with him than not working. And you know not to worry about it, he would help pay the bills so I didn't need to work as much. So, I took only one job. And it wasn't, I didn't make as much. It wasn't enough to help pay all the bills or whatever. And then getting pregnant, I don't know, I said it was like, that was like a veil that was lifted for me. I realized the situation I was in. I was financially dependent on him. And my support system had been virtually cut off and the only people I was allowed to be with were his or his friends partners. And here I was in northern [name of province], and we're talking like north, like [names remote community northern area], like away from anything and everything. Yeah, so that that was kind of scary for me, but then also he had painted it into my head that if I left him, I would just be another single mom and who wants a single, a desperate single mom. (Parent 19)

Being an immigrant from a foreign country I was provided misinformation by my partner as well as denied access to.... like driver's license or bank accounts or any means of independence or establishment. (Parent 20)

Reasons for Leaving

All parents who participated in the study had safely exited their relationship. In addition to discussing the nature and context of the violence they experienced, participants also shared their reasons for leaving their relationships. These reasons were varied and unique for each participant but can be organized into four areas: abuse, infidelity, availability of adequate supports, and children.

● Abuse

Abuse was the most frequently cited reason for leaving the relationship. A total of 12 parents talked about the increasing frequency/severity of the violence and criminal charges/protection orders in relation to their decision to exit the relationship.

So, you know I did what I could for certain amount of time and then that's when I got assaulted after he had left. And that's when I finally had the courage to actually charge him. (Parent 17)

We had one kind of blow out where he threatened my life and put his hands on me and I called the police and that was the end of it. That was, that was the total end of the relationship. But that was the beginning of the nightmare, really. Getting out was kind of, I mean, I did everything I was supposed to do, I called police, I cut him out of my life as best I could, but we share a child, so he's been abusive in every way he can be since then. He's been awful. (Parent 12)

● Infidelity

Five parents indicated that their partner's infidelity was a central reason for the dissolution of the relationship.

I got a phone call and found out about this double life, and the reason behind him actually marrying me and immediately ended it. It was. It was, he was out. I had packed his bags, had them out the door, door locks changed and told him that was it. That was enough. Just would not stand for cheating and being used. (Parent 09)

I have not been very happy with him for a while and so when he said he was cheating, then I was just okay then I would like to leave, so that's when I left. (Parent 07)

I decided to separate from my partner as soon as I found out there was another woman involved. My partner had a problem with pathological lying all through our marriage and we did argue considerably a lot. (Parent 02)

- ***Availability of Adequate Supports***

The availability of supports was a catalyst for some parents looking to leave their relationship. Parents discussed how legal resources, community supports, and assistance from family and friends enabled them to safely exit their relationship.

And then I started working with and calling my family more and stuff. I would do it sneakily like I would do it. You know my personal cell phone which I never used because I had another one that [name of ex-partner] paid for. So, it's like a sneaky, hidden cell phone, because he would look at my phone calls, and check who I called and how long I was on the phone. So, that's how it started, and then my family knew a lawyer, they consulted with a friend of theirs who is a lawyer, and she consulted with another lawyer, to see what I needed to do to come back to [province]. So, he gave her some advice, and he gave me some names of lawyers where I was that would be able to help. So, I, again sneakily, made appointments, I went to meet with lawyers, to make sure that once I left that they would not have to come back. (Parent 19)

I had tried to leave him before previously, about six months earlier, and I did actually leave him. I accessed resources from the, I sought help from the [agency/organization]. And explained what was going on. I actually spoke to one of the staff. She took me to her house and I was just in a panic and she helped calm me down. She gave me access to a computer. Gave me a phone. I was able to contact a friend, friend of my family, he got ahold of my mom because I was desperately wanting to talk to my mom and I ended up staying at my mom's place for a good week. (Parent 08)

- ***Children***

Parents also discussed how their children were a motivator for leaving their violent relationship. Specifically, parents discussed wanting to exit their abusive situation to create a better life for their children.

But then my son wasn't even a month old and already he had started drinking again and he assaulted me and my mom, he had pushed her down and at that point, you know I had just had a premature baby and I was afraid and I needed to get a house. And so, I just kind of blocked everything off and decided that I would still go forward with it because I needed to provide something for this child and I would make it work. Yeah, so I don't know he was, I left numerous times. You know I want to say like the fourth time was a charm and that one it was beyond repair. You know, I had left with bruises and it was just very bad. So, I moved home and that was in 2010. (Parent 16)

In the beginning of 2017, but I had wanted to leave for a while. He was, he was very abusive to me. Financially, emotionally, and physically; the physical abuse was only once or twice a year. And then he had an eye injury in 2015, and he was off work for two years, workers comp. And it was very stressful I had two young children, or three; I had my oldest was little then too. I didn't have my last and he had begun, he had got addicted to meth and he was selling things I'd wake up in the morning and my daughter's Jolly Jumper was gone. I would sit with my bank card in my bra. I slept with my children all in one room with me, with the door locked. But In 2017 in May, I had reached out to my oldest daughter's grandparents and I asked her to help me. (Parent 11)

Gaps and Challenges to the Judicial Response

Participants identified several gaps and challenges related to the judicial response toward families involved in both the criminal and family court systems in custody and access cases involving IPV.

Challenges for the Criminal and Family Courts in Cases Involving IPV

- *Staff Awareness of IPV and Effects of Exposure*

A lack of awareness surrounding IPV and the effects of exposure were noted by community agency staff, criminal and family court personnel, and parents. This lack of awareness was particularly salient for non-physical forms of IPV, such as emotional abuse and coercive control.

I think there needs to be a lot more awareness. (Community Agency Staff 02)

When the intimate partner violence was brought up and then when it wasn't physical it was totally removed from the equation. (Parent 19)

I just don't know if it's up to date information enough for the courts, judge, prosecutors to really understand the difference between arguments and conflict and what those look like and whether there's any manipulation, any type of control behind it, and then looking at coercive control, in particular. (Criminal and Family Court Personnel 09)

- *Lacking IPV Specific Responses/Knowledge*

Community agency staff and criminal and family court personnel noted that knowledge of IPV was variable in the court systems, with personnel having differing levels of understanding related to the issue.

I would say it varies. Some folks come into the family court system with knowledge, whether it's from previous experience or personal knowledge. I think a lot of people learn in the field and some people just simply don't have that knowledge. (Community Agency Staff 03)

I think it depends on the court personnel. I think certain people are, like some crown attorneys are, some defense lawyers or some judges are, but some are not. (Criminal and Family Court Personnel 10)

Some lawyers are better at it than others and some lawyers—and I think that has more to do with maybe, you know, their life experiences or something, or that they've taken a particular interest, but I don't see it across the board. (Criminal and Family Court Personnel 11)

There's probably a really variable level of knowledge about intimate partner violence and children's exposure... like even amongst judges there's probably variable knowledge, certainly amongst lawyers. (Community Agency Staff 07)

Participants described the need for more adequate and up-to-date educational programs and training:

More training, certainly more training in terms of impact on children. (Community Agency Staff 01)

Education and understanding like we were talking before, training around it. (Community Agency Staff 02)

● *Issues for Marginalized Groups*

Specific challenges for marginalized groups in the court systems were noted by community agency staff and criminal and family court personnel, which largely centered around discriminatory attitudes, and a lack of resources, for racialized and Indigenous groups.

It's really intimidating, and I think even more so for people of colour. (Parent 15)

I am concerned that there isn't anything like an Indigenous elder or First Nations elder for people to have access to and I'm concerned about what happens outside of [city] because those same services are not offered. (Criminal and Family Court Personnel 01)

You also have stereotyping and a lot of them are Aboriginal, right? And they just kind of get swept under the rug unless it's an immediate danger. (Community Agency Staff 02)

The whole legal process is not designed for people who are marginalized, first of all, you know people don't have access to the same resources, whether that's technology, whether that's money, whether that's transportation, all of those things. (Community Agency Staff 06)

● *Limitations of Policy*

Criminal and family court personnel noted that existing policy and legislation pertaining to custody and access cases involving IPV could be improved upon to better respond to victims/survivors and children.

Even though domestic violence, for example, is a consideration for the best interest of child under our provincial Family Maintenance Act, there's things that we can do in terms of strengthening our legislation, in terms of like I said the sharing of information between the criminal court and family court system. (Criminal and Family Court Personnel 02)

So, I mean, what I've seen in the past is a lot of laws and policies that have been put in place to try and protect women that have actually been used against them in the end because the abuser is more manipulative, he uses the system in a way to turn things on them (victims) and gain more strength and ability to further punish. (Criminal and Family Court Personnel 11)

● *Issues with the Adversarial Model*

Criminal and family court personnel also stated that the adversarial system was not ideal for handling custody and access cases involving IPV, noting that this method of dispute resolution could indeed increase stress and conflict for families.

The adversarial system itself places incredible stress on families and on children. It doesn't work well, period, to put it mildly. (Criminal and Family Court Personnel 06)

I mean court is always a last resort for any family law file or it should be, and I mean it just polarizes people and it often results in, you know, increased use of violence because people are filing affidavits, you know, once it's all kind of a win and lose situation it often increases the conflict between parents. It increases conflict, not deescalates. (Criminal and Family Court Personnel 07)

● *Self-Representation*

Parents who chose to self-represent in the court systems noted that they faced various challenges that those with legal representation did not, such as delays and a lack of access to legal information.

Now that I'm self-represented, it's almost impossible to get information. It seems like everything is harder because I'm self-represented. Like if you go to the law courts to file something the lawyers get priority access, which means that I end up sitting there for longer, like my time isn't valuable at all. There's practice directions online that are all brand new, but then you actually get to courts and they're not following any of those... but because of COVID anybody who is self-represented got bumped and anybody with a lawyer was able to do it virtually. (Parent 12)

You know, going in this time around self rep'd I am concerned. I know there will probably be more delays. There's gonna be a lot of time off work, probably to go back and forth and iron this out... there's forms, there's procedures, there's protocol that aren't common knowledge. (Parent 02)

Gaps/Barriers in the Judicial Response

Participants also discussed several gaps and barriers related to the court processes in cases involving IPV.

● *Children not Involved in the Court Process*

Criminal and family court personnel noted that children were generally not directly involved in the court process, with most of the attention being directed toward the conflict between parents.

I guess the biggest barrier currently is that the judicial response doesn't include children in intimate partner violence cases. (Criminal and Family Court Personnel 10)

In child protection proceedings, children 12 and up, you're entitled to ask a judge that an amicus be appointed to speak for you, advocate for you. In family proceedings, there is a big gap. In family proceedings no such thing exists. You could be split up from your parents and one parent goes one way and the other parent the other way – they use you as a pawn for their own interests and to get back at the other. (Criminal and Family Court Personnel 03)

● *Criminal Court*

Gaps and barriers present in the criminal court system were noted by community agency staff, criminal and family court personnel, and parents. Notably, the criminal court process was described as *lengthy and time consuming* for parents.

Often the court system is lengthy, from the time somebody is charged to the time it actually goes to court it can be two years down the road. (Community Agency Staff 06)

I think that the justice system is not necessarily the most effective way of responding to intimate partner violence or to the effect that it has on children. It takes too long and it's too cumbersome. (Criminal and Family Court Personnel 06)

They're very slow, and things don't happen very timely, and I think that's what's ineffective when dealing with matters involving children. (Criminal and Family Court Personnel 04)

Parents noted various *safety concerns* throughout criminal court proceedings, describing continued threats, harassment, stalking, and breaches of protection orders by offenders:

He was still harassing me. He still had people driving by and reporting to him. You know, it was terrifying, just wondering if he was going to snap and actually follow through with his threats. (Parent 02)

He had eyes on the home at all times. Like my comings and goings. So, yeah, I did not feel safe, and then when he breached again it was, you know, smashing up the house window, damaging a vehicle, uttering threats. (Parent 17)

I was in fear all the time... I kind of took it as the abuse was almost the least of it. It's all the emotional stuff and the psychological stuff that caused me more harm than the physical stuff and so like a lot of the time you know I was just constantly under emotional stress. (Parent 04)

Every time that something changed, there was like an escalation in his behaviour. So, you know, I did call the police seven or eight times. (Parent 13)

Parents also noted a *lack of supports* within the criminal court system, noting that they felt confused, scared, and unsupported throughout the court process:

Going through the criminal court system, I found it was like walking with a blind-fold on, pure black. There was no assistance. Other than [victim services program] which was so awesome, but they can only give you so much information based on what they know. (Parent 14)

Personally, when I think back on it, it wasn't very supportive. I was young, I was naïve, I didn't know about the court system to begin with, so I didn't know how to speak up for myself, ask questions. I felt intimidated, out of my element, and scared, worried. (Parent 08)

I always felt really defeated and that I had nobody—like I had no support system around me at all. (Parent 03)

● *Family Court*

Gaps and barriers in the family court system were also noted by community agency staff, criminal and family court personnel, and parents. Once again, the family court process was described as lengthy and time consuming, which could be particularly harmful when children are involved.

You know, resolution can take... like I've had some families, eight years, you know. It just compounds the trauma on these kids that they are dealing with, it doesn't let them move forward. (Community Agency Staff 04)

The whole court process is so convoluted and it's so long and it's so cumbersome that some separations and divorce, it can take like... it can be five or six years, even longer to go moving through the court systems. (Community Agency Staff 06)

In the recent past it's been a long process for folks – particularly for folks who have experienced intimate partner violence and so it's been a long process in terms of going to court and/or mediation, trying to figure out custody and access issues, that often being a long process for folks. (Community Agency Staff 01)

We're going now, this is now going into year three of this. This will probably take another year and a half, so this is probably going to be another, this will probably be a total of five years of my life. (Parent 02)

Participants also noted that the family court system did not have a good understanding of the impacts of trauma on victims/survivors of IPV and their children. The need for a trauma informed approach to custody and access cases involving IPV was stressed, to prevent further trauma and re-victimization during the court process:

The judges, lawyers, they really need to be educated on trauma-informed care, because like I said these people are just continuously re-victimized every time they go to court. (Community Agency Staff 04)

Trauma-informed, and that's something that needs to be across all professions and disciplines is being trauma informed. (Community Agency Staff 09)

For practitioners dealing with family law child protection issues, that kind of thing, have some training that's mandated by the [professional organization] in terms of understanding some of the issues and in terms of the trauma that children and people deal with every day. (Criminal and Family Court Personnel 01)

Participants also noted a *lack of support or advocacy personnel for children* during family court proceedings:

They need somebody that's on their side and will support them as they go along. (Criminal and Family Court Personnel 03)

The judicial system, the courts, the entire legal system really need to take the time to create safety for children in the process. It can have such a profound impact if children feel safe and have their own support, whether it's someone they know or someone who is attached to them for the process... I think that's probably one of the biggest barriers is that that doesn't exist for children. (Community Agency Staff 03)

There should be more offering of services to the children as well as to both parents, not just in the understanding of access, but understanding of what's going on. (Community Agency Staff 08)

Parental Alienation/Lack of Awareness around Parental Alienation

Community agency staff, criminal and family court personnel, and parents detailed their experiences with claims of parental alienation. Many participants noted that claims of parental alienation were unfounded, seeing as non-offending parents were often accused of alienating children from offending parents, when they in fact had valid safety concerns.

Folks wanting to leave the relationship and having that relationship end and taking their kids to a safer space to avoid the intimate partner violence continuing, they will oftentimes go into a safer space and that is often judged as parental alienation. (Community Agency Staff 01)

Parents that are strongly opposed to their children having a relationship with the other parent very likely believe that things have happened to their children and that systems aren't listening to them or helping them and truly live in terror of their children being harmed by the other parent. (Criminal and Family Court Personnel 12)

What I tend to hear a lot of is a parent being accused of alienating the kids or keeping the children from the other parent without the court recognizing that this parent went through a pretty traumatic experience, so it's understandable if they are not comfortable just sending the children off. (Community Agency Staff 04)

What's happening is there is a lack of a distinction between real parental alienation syndrome and a parent that has legitimate reasons for refusing access, and those two are being confused. (Criminal and Family Court Personnel 06)

Additionally, perpetrators of IPV were described as using claims of parental alienation as a tactic to further exert power and control over their former partners:

The only time I've ever heard of it is when the abuser's using it against the victim. (Criminal and Family Court Personnel 11)

There's trauma there, there's resentment, so parental alienation to me is something that just puts the fear in me because there's so many theories coming out with it. It's being used against domestic violence victims as a form of reasoning for the abuser. (Parent 02)

Participants described the need for more education and a better understanding of parental alienation within the family court system, to effectively judge these claims in custody and access cases involving IPV:

I think the judges have to get more involved and more educated, learn more and have a better understanding of what's going on. (Community Agency Staff 04)

There needs to be a concrete solid definition of this. Because you know what there's so many multiple instances that you could cry parental alienation, and it doesn't even fit the bill. (Parent 02)

Consideration of IPV & Responses Toward the Issue

Many participants spoke about the recognition of IPV in the family court system and the ways in which this information was used, or not used, in determining custody, access, and exchange.

- *Disclosure of IPV being Viewed in a Negative Light*

Parents, in particular, discussed how disclosures of IPV were not taken into consideration, or taken seriously, during the family court process:

Unfortunately, the domestic violence that I endured over, you know, I'd say five years, because the first two years I didn't have any real physical violence, it was not taken into consideration. It was very disappointing as a woman leaving, you know? (Parent 11)

It's always been very clear that they don't care how he treats me. It's completely irrelevant how he treats me. So, yeah, there's never really been a response to that in any way, shape or form, even when we went to trial it wasn't really commented on. (Parent 12)

I think because mine was not physical, like the abuse that I experienced was not physical, that it was not taken seriously. (Parent 19)

Community agency staff also described how the family court system was not receptive to disclosures of IPV during the court process:

Domestic violence has no place in family court, that's what we have been told. (Community Agency Staff 05)

Intimate partner violence is often a subject that is put to the side. (Community Agency Staff 01)

- *Lawyers Discouraging Disclosures of IPV*

Several parents described instances where their lawyers discouraged them from sharing their experiences of IPV during the family court process. Disclosures were discouraged for varying reasons including the timing of when the violence and abuse occurred and even the way that the victim/survivor would present themselves in court.

Because I only reported the last assault in 2017, it wasn't taken very seriously, unfortunately. They basically told me it didn't matter. Like there was no point of bringing it up in any aspect in criminal or family court because I never reported it. (Parent 11)

I had someone basically, they told me that unless it was like an exculpatory thing it would just be considered, any of this domestic violence against me or any of these like bizarre conducts from him were in the past. They weren't happening, now it doesn't count for it. Going forward as him being a father and being able to take care of his kids, whatever he did to me does not matter in regards to custody. It's kind of how I felt it was being in. Yeah, don't bring it up. You'll just look like a woman scorned. (Parent 13)

When I sat there in our hearing and I had my lawyer and technically I wasn't allowed to talk. I remember that judge saying... well, it just looks like these two need to figure stuff out and quit being immature. And I wanted to pipe up and my lawyer just kind of put up and down and kind of touch my arm to not say anything. (Parent 16)

We did in the affidavit so I know my lawyer documented that that kind of information. But there again, my lawyer didn't really want me speaking. Because I might not look like a victim or sound like a victim. (Parent 02)

- ***Family Court Open to Asking/Hearing about IPV***

Some parents reported having a positive experience in the family court system after disclosing their experiences with IPV, stating that they felt heard and supported:

What I shared, I was heard and they supported me through that. (Parent 10)

They are very sympathetic to my experiences. See a lawyer kind of went hard on me, but my lawyer did a good job on explaining what I went through, like questioned me in a line so that it would explain what I did experience. (Parent 09)

Community agency staff also shared this sentiment, but noted that there were still some issues regarding how the system deals with disclosures of IPV:

I think there are parts of the legal system that are asking about it. Are they open to hearing about it if it's raised? I would say yes. But, I don't think the system is well designed to deal with it the way it is right now. (Community Agency Staff 03)

I mean as far as I know they are open to hearing about it, we do discuss it when it's relevant in our assessments, but I haven't had the court go out of their way to ask about anything specific. (Community Agency Staff 04)

- ***Experiences of IPV and/or Children's Exposure being Minimized in the Criminal and Family Court Systems***

Alternatively, within the criminal justice and court system, participants also described the ways in which IPV was minimized or downplayed for victims/survivors and their children:

He was convicted of the breach charges, but not the assault and other threats. And the judge actually said to him, you look at nice guy. I don't think he did those things. Which is pretty, pretty undermining and devaluing. (Parent 12)

Minimizing or ignoring children's exposure to that violence by saying that children are sleeping or children weren't in the room and not really recognizing that even though children may not actually visually see violence they are exposed and they do experience it whether or not they're actually physically present or not. (Criminal and Family Court Personnel 04)

Lack of Coordination between Criminal and Family Court Systems

A reoccurring issue discussed by community agency staff, criminal and family court personnel, and parents was the lack of coordination between the criminal and family court systems. Participants detailed the challenges of navigating separate court systems when dealing with custody and access cases involving IPV, as well as difficulties and issues pertaining to protection orders in these cases.

Lack of Communication between Criminal and Family Courts

Community agency staff, criminal and family court personnel, and parents frequently described the lack of communication between the criminal and family courts—noting an absence of information sharing and communication channels between the two entities.

The systems don't communicate with one another. (Criminal and Family Court Personnel 13)

There's a lack of communication. So, when you're dealing with the criminal court case and it ties into a family court case, there's zero communication. (Parent 02)

They're not communicating, one system's being used against the other, neither lawyer has a good understanding of the other system and there's so much miscommunication and lack of connection that the accused person is running circles around everyone. (Criminal and Family Court Personnel 11)

The way things are right now, in my experience anyway, is that they're two completely separate, not only courts, but processes. Generally speaking, different, you know staff, different lawyers... I think there's a just a complete lack of... you know communication and sharing of information that could potentially affect outcomes in both court systems. (Criminal and Family Court Personnel 10)

- ***Criticisms about Systems/Agencies Working in Silos***

In addition to a lack of communication, the criminal and family courts were also described as working in silos or operating in isolation from one another. Throughout the interviews, parents frequently described the solitary nature of the two courts:

They were just completely separate. I had a criminal case pending, and I had a family court pending and they weren't connected or even communicated at all. (Parent 11)

It was almost like it was two different entities and they can't work together. (Parent 02)

I feel like they were both fully separate. There didn't feel like there was any crossover whatsoever. Like anything that came to the family court I had pretty much given them... so it just feels like there just wasn't communication between them. (Parent 04)

Participants also noted that this issue impacted the criminal and family court systems at large, including accompanying agencies such as the Crown, law enforcement, victim services, and child welfare agencies. These agencies were described as being siloed from one another, as well as the criminal and family courts:

There needs to be more communication between the court systems and police. (Parent 06)

Police and family courts don't talk. Police don't even become involved with family court proceedings or want to engage about it, and I think there's a role for everyone, and I think that's a major gap. We have to stop seeing the two as being separate. (Criminal and Family Court Personnel 09)

In terms of communication between the provincial court system, the Court of Queen's Bench, and even the police, and child family services I would say 'cause they're all intertwined often in family law cases where there's family violence. So, there needs to be better communication. (Criminal and Family Court Personnel 07)

I think it would be helpful for information to be shared more openly and quickly between... for example, between police agencies, the Crown, victim services, [child welfare agency ... there's often a gap between when incidents happened, and when people actually have contact with folks in the system. So, I think that could be improved upon. (Criminal and Family Court Personnel 10)

● *Need for Increased Collaboration*

Due to the above-noted challenges, community agency staff, criminal and family court personnel, and parents stressed the need for increased communication and collaboration between the criminal and family court systems to effectively respond to custody and access cases involving IPV.

I think the first thing for me is the coordination across legal systems and I know how impossible that is, but I think we're at stage where, you know, even information and technology wise, we can make it easier for victims and particularly for children. (Community Agency Staff 03)

The two court systems need to work together. You know they have to be linked because when you see a criminal charge, this is proof that somebody's behaviour has escalated, especially when it comes to domestic violence. It verifies the victim's testimony, right? You're now in criminal proceedings and family courts need to start taking more serious consideration of that. (Parent 02)

Criminal and family court personnel, in particular, cited the need to improve upon information sharing between the two systems:

The ability of the two court systems to be able to share information about court proceedings would be a big improvement. (Criminal and Family Court Personnel 02)

Well, I think the information sharing needs to be expanded into the family court system. In particular to, say, judges or lawyers or court assessors, evaluators, who are involved in those custody type cases. (Criminal and Family Court Personnel 13)

This stuff really needs a level of communication so you don't have inconsistent proceedings or you don't have proceedings that are... inadvertently adversely affecting the other one. (Criminal and Family Court Personnel 05)

● *Need for System Navigation Supports for Parents*

Additionally, community agency staff stressed that system navigation supports for parents would help ease confusion in the court systems and better facilitate the court processes for families:

I think if they could have consistency in situations, like in service providers when it comes to court and that kind of thing, somebody to help them navigate that difficult system, what to expect, when to expect it. (Community Agency Staff 05)

And all the peripheral services attached to the court system. Each part of the system knowing each other's role and responsibility and making an effort to coordinate those things so that the person going through the system has less issues dealing with each part of it and then some I

guess understanding how the other parts work and being able to provide full information to victims as they come through different parts of the system. (Community Agency Staff 03)

Difficulties/Issues with Protection Orders

Participants noted several difficulties and issues with protection orders including trouble accessing protection orders, confusion around parameters, inconsistent enforcement, and violations and breeches of protection orders.

- *Access to Protection Orders*

Community agency staff, criminal and family court personnel, and parents, noted that protection orders could be difficult to obtain, with some victims/survivors having their applications for protection orders denied.

Lots of people apply for protection orders and don't get them. (Community Agency Staff 03)

What I hear the most complaints are is when people are turned down for protection orders. Other concerns I've heard are from some of the male clients I see, that you know, their experiences with domestic violence aren't being heard, aren't being addressed, and they also have considerable issues trying to get protection orders. (Community Agency Staff 04)

The process of obtaining a protection order was further described as strenuous, difficult, and even retraumatizing for victims/survivors.

The access to the process of protection orders is a significant barrier I think because it's so arduous. If that could be streamlined, that would be – or even just, you know, made better and made not so difficult to get a protection order. (Criminal and Family Court Personnel 04)

Nobody had ever told me that it is very hard to get a protection order by the way. It's a half day process in front of a judge or justice disclosing absolutely personal horrific details and being put on the record nonetheless too. (Parent 02)

Participants also noted concerns about the personnel administering protection orders, noting that access to these orders could be hindered by a lack of education and training pertaining to the nuances of IPV:

My biggest concern would be with judicial justices of the peace (who) grant protection orders under the Domestic Violence and Stalking Act. From my personal experience and what I've seen, I do not think they have the proper knowledge about IPV and the risks towards children... and then sometimes not granting orders and they're not recognizing some of the other psychological, emotional types of things that are happening—again, some of them are looking with that lens of “physical violence equals safety concern.” (Criminal and Family Court Personnel 13)

There are still people within the system who are not really educated about that and I think even when women go for protection orders it's a JP magistrate and you know they are trained sort of in the judiciary process, but not necessarily in intimate partner abuse and that really does have an impact on... because we know a lot of orders were denied before they made some changes a couple of years ago to protection orders, to sort of create more criteria so that magistrates could sort of, you know, like not just say “oh this doesn't sound very serious” because what you don't understand is the intricate dynamics of an abusive relationship, particularly emotional abuse or control. (Community Agency Staff 06)

- *Confusion around Parameters*

Community agency personnel discussed confusion around the parameters of protection orders, with police, in particular, being unsure of how to handle certain cases:

Once the protection order is granted, what happens then is... for us in the rural areas, often confusion around if this happened, if she's now living in [name of rural area], but the assault happened in a community outside of here... which policing service is going to be in charge of that protection order? To whom should she report if there is a breach? So, there is some confusion even with the policing services we find around that. (Community Agency Staff 05)

Additionally, the lack of communication between the criminal and family court systems often led to parents dealing with conflicting court orders (mostly commonly between protection orders and custody orders), which also contributed to confusion:

We'll see a protection order that is contradictory to a family court order or probation order, that kind of thing. And we spend time, and our clients spend money trying to sort those out through the court system and have to go back to the lawyers again and again to get that sorted out. (Community Agency Staff 03)

Sometimes we get those calls from parents because they don't know what to be doing because they also—it (court order) may say they can't have any contact or communication with the accused but now they have a family court matter coming up and they have to be in the same room together, right? (Criminal and Family Court Personnel 14)

- *Inconsistent Enforcement of Protection Orders*

Parents also noted that protection orders were not enforced on a consistent and regular basis by police, with different officers interpreting the parameters of protection orders in different ways:

Like honest to goodness, it depended on the person, like the way that the justice of the peace intended that protection order, you know, and the way that we had it written down, and we had this exception so that he could still see his daughter until custody came. You know, it was not the way that it was applied. And it would depend on which, it would depend on which police officer I called would be if my best interests were applied. (Parent 13)

So, the orders come down and, and the biggest frustration with them is when they are breached, the police always find it open to interpretation. And it shouldn't be right? You should be able to just pick up that phone, call a lawyer, call it justice, and they should tell you know this is a breach. There's no interpretation. (Parent 02)

- *Violations/Breaches of Protection Orders*

Parents discussed how offenders of IPV breached and violated the parameters of their protection orders without facing any subsequent consequences:

The way that the orders are set it is a one-way basis wherein they were able to breach on those four separate occasions without having any impact to them. (Parent 20)

They will remove him, but he will just get released the next day and he will be knocking on my door even though the restraining order and I will call the police back and they won't show up in time on the reserve. (Parent 18)

Even with this protection order, it still doesn't do it, like it's barely worth the paper it's written on. And even in terms of when he blatantly does things that are against the protection order, and then there's a question about whether he can be charged or not. (Parent 12)

Community agency staff and criminal and family court personnel also echoed this sentiment, stating that offenders often violate protection orders with little to no repercussions:

You know the court also isn't very responsive to... misbehaviour by parents, let's say. You know parents continually violate court orders and there's no repercussions for that other than a caution from the judge, that sort of thing. (Community Agency Staff 04)

When the women call their protection order then often they are told "ah he just really wants to see his kids" because let's just say the partner turns up randomly at their house where they are not supposed to be and there are orders in place and the police will kind of just discount it, you know. (Community Agency Staff 05)

We may see many breaches of protection orders that aren't effective and so my point overall is that like I think it's effective as it can be but it's not the only, it's not- it's only a piece of the whole puzzle. (Criminal and Family Court Personnel 07)

In cases where an offender does face repercussions, parents noted that it is often not done in a timely manner:

So every time my partner breaches or breaks the law that takes the police two to three weeks to get the paperwork and to even issue an arrest. (Parent 02)

Barriers to Seeking Help

Participants identified several barriers that exist in relation to seeking help for parents and young adults in custody and access cases involving IPV. Help-seeking behaviours were impacted by several factors including financial challenges, a lack of resources, and the fear of harm or abuse—as well as unforeseen challenges, such as the COVID-19 pandemic.

Financial Barriers

Parents noted the significant financial barriers they encountered because of being involved in the criminal and family court systems in custody and access cases involving IPV. The burden of legal costs, and everyday expenses, were discussed in particular.

After the criminal charges were laid, family court dragged on to the point where I almost wound-up bankrupt. I'm unemployed, I've cleaned out my savings, so I now had to concede on some level with my ex-husband. (Parent 02)

I went bankrupt because of like all that happened and the divorce and that. I would say that impacted my financial well-being. And then of course all the legal bills. That was a lot of money that I ended up spending. I think in total, if we were to add it up, I wouldn't be shocked if I came up with \$20,000. (Parent 07)

Well, I don't have to pay for the court stuff, which is nice because [legal agency] does it. But living off of the income that I get and the amount that I can work is really, really hard. So, I've had to rely on a lot of different people for things like cable and internet because I don't get money for that. (Parent 06)

Participants also described difficulty receiving child support payments from offending parents—which served as yet another financial stressor for those engaged in the court systems:

I know eventually I will end up getting money from him because, you know, with the system they have it so that people end up having to pay with their income tax payments and whatever, but right now is really difficult and having to wait for everything is even worse. Because that way like I shouldn't have to rely on the food bank and stuff because he's living a lifestyle that he enjoys. (Parent 06)

The other piece too is the child support, right? Some people really depend on that and to go lay charges—well, he's definitely not going to pay then, right? He's not going to give her any money, that's going to be cut off. (Criminal and Family Court Personnel 14)

Criminal and family court personnel also noted that non-offending parents are often deterred from leaving abusive partnerships due to the significant financial toll, leaving them stuck in a harmful cycle of abuse:

If there's financial issues and he can't afford to be paying for an apartment while they're also trying to pay a mortgage on the house, or issues going on with the kids, and so there will be times where they'll minimize the incident or what happened, or when they're testifying and they get their statement from the Crown they'll say "well no, this didn't happen, this is actually what happened" and change their story, right? And completely deny they were ever hit, right? (Criminal and Family Court Personnel 14)

Even though they're away, there's that pressure, the constant pressure. Now, you do not have the same financial support as you did in the past. So, there's that pressure to return to the same old place where you ran away from. And then there's consequences afterward. More violence occurs. (Criminal and Family Court Personnel 03)

Lack of Resources

Community agency staff and criminal and family court personnel noted a lack of resources for families experiencing violence, as well as those navigating the court systems in custody and access cases involving IPV. Resources including shelters, housing, income assistance, counselling, and legal supports were specifically cited.

I know one of the issues that comes up a lot is that income assistance and access to housing piece, that is a huge issue...you know when home isn't safe anymore, where do they go, right? So, what if the shelters are full? Then what are we doing, like where can we send people to? There's only so many shelters in the city and there's only so many spots, right? So that is always a challenge. (Criminal and Family Court Personnel 08)

I think there's all kinds of barriers for victims, and therefore children, in terms of lack of resources, lack of understanding of the cycle of abuse, barriers in terms of options for counseling and support or leaving a relationship. (Criminal and Family Court Personnel 10)

The services for access for everything outside of [city] sucks, and I know there has been some movement and some gains, but there could be so much more outside of [city] that should be happening. (Community Agency Staff 08)

The family court... there's nothing. People are waiting and drowning in that system just because there is no support. (Criminal and Family Court Personnel 13)

Community agency staff also noted that existing resources often had extremely long waitlists—rendering available programs and services inaccessible for many:

The parents decide they need to get help, we need to go to treatment, we need to get better. Then you're told, for example—detox right now this whole COVID thing—I had somebody who needed to get into detox, and I phoned and there was 192 people ahead of them. (Community Agency Staff 02)

Hesitancy to Report/Disclose IPV

Community agency staff and criminal and family court personnel noted that survivors of IPV often exhibited behaviours which indicated they were hesitant to disclose their experiences with IPV or were withholding information about their experiences with IPV.

There are some definitely tell-tale signs that they're victims and that they're hesitant to disclose. (Criminal and Family Court Personnel 02)

That is absolutely every day, and that's the nature of domestic violence when you've worked [in the area for a long time]. I've done this work for almost seven years and I've had clients for seven years, the same person, and you kind of go through that with them. And sometimes they're very open about the abuse and then they'll backtrack and recant and say "no, I lied" or they don't want to talk about it at all, they're just adamant that it didn't happen. (Criminal and Family Court Personnel 13)

The fear of violence and abuse—whether through physical, emotional, or financial means—was commonly cited as a reason why survivors of IPV may not disclose their experiences with IPV, or may withhold information:

My understanding, my feeling, is that it's probably based on a number of factors. One could be fear of retribution—and when I say retribution, it's not necessarily just maybe physical or verbal threats—it could be financial retribution, i.e., he's not going to provide support or something like that. (Criminal and Family Court Personnel 02)

Also, the fear, right, of the repercussions that if they follow through with the court process, what he's telling her about losing the kids or threats to harm them even further, right? Like, "you better go to victim services and get those charges dropped or else" kind of thing...so there's these threats and if there's a history of IPV then they know he's going to follow through on that. (Criminal and Family Court Personnel 14)

Sometimes the accused person threatens to take the kids and never return if they report it. (Criminal and Family Court Personnel 11)

Participants also noted that fear of child welfare services involvement further served as a deterring factor for disclosing IPV or withholding information, seeing as survivors feared compromising custody of their children:

I think that some of the reluctance to report in those cases is the fear that [child welfare agency] are going to be contacted to start a file and then potentially they have their access to their own children restricted or taken away, right? So, I know that I've had victims that have come—and these are victims that are you know, scared to disclose because they've told us before that we're afraid that you're going to contact [child welfare agency] and [child welfare agency] is going to take my kids away. (Criminal and Family Court Personnel 08)

Well, they're worried that if they say something it might compromise custody of their children, or [child welfare agency] involvement, or might make them look them bad...it happens all the time, almost in every court case. (Criminal and Family Court Personnel 11)

If it's an allegation, for example, of a woman being abused while she's holding her baby, or a child or something like that, they may be very reluctant to admit to that because child abuse is actually seen as much more serious in the criminal court system than domestic violence. And for that reason, people know that the offender's going to be in a lot more trouble for abusing a child than abusing them as a partner. So, I think sometimes people are reluctant to admit when that's happened...and also for women or parents—for victims—it also means child welfare involvement which is something people don't want. (Criminal and Family Court Personnel 13)

Fear of Not Being Believed

Non-offending parents described how their experiences and concerns with IPV were not believed both in the criminal and family court systems, and society at large.

She said because you're an educated, articulate, independent woman, they may have a hard time believing you. (Parent 02)

He fought me for custody, and I kept telling my lawyer don't give him custody because he abused me and I'm afraid he's going to abuse my daughter. Nobody listened to me, so he ended up winning custody, which I was just in shock. (Parent 08)

I wasn't living in a city, it is a small town, and a lot of people knew him, so I did have a lot of people angry at me because nobody believed my side of the story. (Parent 16)

Community agency staff and criminal and family court personnel also described the challenges of being believed faced by non-offending parents:

I think that there's a certain belief of some victims that they won't be believed by law enforcement, by the courts. (Criminal and Family Court Personnel 02)

So often, you know, you get a woman who's argumentative, or can't keep herself focused, or is maybe even lying to us because that's been her coping skill to keep herself safe. And the confusion and the agitation, those are responses to trauma, but when someone sees those behaviours, they assume that they're not telling the truth, you know what I mean. So, then they're kind of written off. (Criminal and Family Court Personnel 11)

First word that came to mind when you asked that question was just being believed. Um, believed and understood where they don't have to explain to a court judge, to a police officer, to another family member, to anyone involved with them in the process of getting separated or divorced, what the impact may be. (Criminal and Family Court Personnel 09)

I guess I would say that our experience and the experience of our clients right through the whole system, it often feels like it is stacked against her, you know? Like right from the get-go with police intervention...that often it doesn't feel like she is supported or believed and so it's difficult to trust a system like that. (Community Agency Staff 05)

Perceived Negative Impact on Relationships with Children

Parents underscored that bearing witness to abuse and being involved in the criminal and family court systems in custody and access cases involving IPV, had negative impacts on the relationship with their children—including stress, anxiety, and even estrangement.

I think it was stressful for him and it was also some stress issues and trust issues. Oh wow, it was hard. Because I guess, he was traumatized from the abuse also to me. (Parent 10)

Just the stress of going through it brought out anxiety, I guess in both of us. And she would act out when she was younger. When she was younger, she would act out in a number of ways. (Parent 09)

I don't really see her anymore. He maybe just stopped bringing her for the visits and then yeah that was it. Nobody ever said nothing. (Parent 15)

Fear of Harm/Abuse

Non-offending parents described how the fear of harm and abuse—not only directed towards themselves, but also their children—caused significant stress and impacted their help-seeking behaviours.

It's still hard...I still fear for my safety and also the children's safety. (Parent 17)

I was really scared. I was scared because he has a big family and connected to criminal activity, so I was really scared to go to court. When I was in the women's shelter, I remember the ladies were talking amongst each other and they were saying that and there is a lady and she was really beaten up because she testified against her husband and I got really scared and I didn't know if I should testify or not, so I didn't go to court. (Parent 18)

I had a friend stay over a couple of nights. Well, more than a couple of nights, just the safety shield. I paid them a few dollars for their time to come over and do so because they were going through a hard time at the time as well. I bought security bars for windows and then just being extra paranoid, taking cabs instead of driving because he knew what my car looks like. (Parent 09)

COVID-19 Pandemic

Parents noted that the emergence of the COVID-19 pandemic caused significant disruptions to the criminal and family court systems, resulting in unforeseen challenges and considerable delays.

It doesn't help with COVID and stuff. Everything has slowed down. (Parent 04)

Now with COVID It just makes everything twice as hard. When I was going through this and trying to leave my ex, it was around the holidays, it was right before Christmas. Everything was shutting down. There was COVID-19 to deal with. It just made everything harder than it had to be actually. (Parent 08)

I guess when the COVID stuff happened in March last year, instead of doing virtual court hearings, they just shut the courthouses down because they were only doing stuff that was emergencies, which is understandable because they don't want people getting sick. But we live in the 21st century and everybody has a cell phone, everybody has internet, people use Facebook and Zoom and Skype, all those kinds of things and they never thought of doing that until just recently. (Parent 06)

Because of COVID, anybody who is self-represented got bumped and anybody with a lawyer was able to do it virtually. So, because we both are self-represented, we have to wait until September. (Parent 12)

Challenges for Marginalized Populations

Both community agency staff and criminal and family court personnel noted that marginalized populations—particularly newcomer and low-income populations—faced unique challenges when seeking various services and legal support.

One of the populations that I've been working with a lot recently is newcomers, and when you have IPV issues, family court issues, you also have immigration issues, which brings in a whole other area of the law which, again, we don't communicate with, right? And especially in the criminal courts, that can have an impact on immigration status and people's application for immigration if they're refugees and whatnot. Being convicted of a criminal offense can also impact that so I think that there's a need for, in particular, newcomers who are dealing with child protection, child access issues, and IPV because that's a whole other piece. Plus, there's language issues and we need support around even just being able to communicate about these complex things in your own language. So, I think there's a real need for that because we definitely are seeing an increase in newcomers as victims of domestic violence, and they do have specialized needs. (Criminal and Family Court Personnel 13)

It wouldn't be fair for me to comment on what practices are in their home countries, I don't know. But I know that what's been conveyed to me is that they didn't realize that there are laws protecting them, right? No that's not OK here, it's not OK to hit, or to threaten, or to you know, all of it right? (Criminal and Family Court Personnel 08)

I would say...especially when I think marginalized or vulnerable...we have a fairly high newcomer population in our area and I would say there is a lot of...we see very few of them in our agency, like the women and the kids, we just don't see them. But we do know, from the ones we talk to, that often times that the passport or the children are used as leverage. Like you're going to be sent back to the country of origin, me and the kids get to stay here, so again it kind of keeps the woman in her spot, too scared actually to make a move. (Community Agency Staff 05)

The other issue is, with marginalized, vulnerable populations...if you work, you can't access [legal service]. I mean maybe (you can) if you don't make hardly anything but if you make, I think it's 30 something thousand, you don't qualify for [legal service]. So, if you're making 30 thousand or even 40 thousand dollars a year and you're supporting your children...how do you afford a six-thousand-dollar bill, or a thirty-thousand-dollar bill? Cause if you're arguing for custody, if it's not amicable, your lawyer bill is going to be twenty to thirty thousand dollars by the time you're done. And who can afford that? But they can't access [legal service]—it makes no sense. (Criminal and Family Court Personnel 11)

Blaming Narratives Related to Motherhood

Participants noted that mothers in custody and access cases involving IPV were often subjected to unfair narratives, rooted in misogynistic ideals, that shifted blame away from the male perpetrators of violence, and onto the female survivors.

Sometimes they also blame the mother, the victim, because she didn't do this, she didn't do that. (Criminal and Family Court Personnel 03)

[Child welfare agency] is actually opening files in the perpetrators names as well because at one time—and still with other [child welfare agency] agencies—files are only opened in the mom's name, right? The mom is kind of to blame, the mom is responsible for keeping the perpetrator away, you know, for not doing things, rather than looking at the perpetrator. (Community Agency Staff 06)

You also don't know how they're going to take you, right? Are you just this, like person who's doing this to keep the kid away from her dad? Or you know, you're like you know an overemotional woman, you need to settle down because you're making everything a big deal. (Parent 13)

Parents Not Aware of Support Services

As previously noted, participants discussed the lack of available resources and supports for those engaged in custody and access cases involving IPV. However, participants also described not being aware of *available* resources and supports to aid them in various challenges.

Yeah. I was struggling, I had no support systems. I didn't know of any support system to access or resources at that time. (Parent 08)

Back when I was going through the process, I didn't really know about the advocates, and the different, more professional, ways to have the drop off plans for visitation when there is a no-contact order. (Parent 09)

I didn't know a lot of the different roles or different things that could happen. You know, I didn't know that there could be emergency orders that let me stay in the house, for example, and kick him out immediately. You know what I mean? Like, I didn't know I could do any of that and there was no one that ever told me about that. (Parent 07)

Lack of System Navigation Supports

All participant groups noted that the absence of system navigation supports made it difficult for parents to seek various supports and services and understand the often confusing nature of the criminal and family court systems.

I finally suggest that someone do something to create a video tutorial to [child welfare agency], to [law enforcement agency], to community agencies...a video to show how to navigate the system, right? (Parent 08)

I didn't know a lot of the different roles or different things that could happen...I kind of wish there was, I guess maybe a social worker or someone that knows the system, that could have helped me a little bit more. (Parent 07)

Somebody's got to hold their hand in some instances. Some are pretty independent, and they can fend for themselves and their kids, but I would say a large significant part, they need somebody to hold their hand and point out to things that they can do, and that is just non-existent or barely existing. (Criminal and Family Court Personnel 03)

I think if they could have consistency in situations, like in service providers when it comes to court and that kind of thing, somebody to help them navigate that difficult system, what to expect, when to expect it. (Community Agency Staff 05)

I think, again, like service navigators. I know I keep going back to that. When I first laughed at the term, I now believe it's a really important thing primarily for the clients. They're not there to just pass on information to them, but they are walking them through the system, which would go a long way, particularly for people who have been victimized. (Community Agency Staff 03)

Impact on Survivors (Parents and Youth)

The impact of the criminal and family court systems, particularly at the point where they intersected, was a central focus of the parent, criminal and family court personnel, and community agency staff participant narratives. Involvement with the court systems was a decidedly negative experience for many parents who characterized their experiences as stressful, traumatizing, and frustrating. In many instances, involvement in

the court system resulted in negative outcomes for parents, including: poor mental health, addictions, discrimination, injury/trauma, financial stress, and revictimization through the court systems.

Poor Mental Health

Parents and young adults noted that negative experiences in the criminal and family court systems contributed to various mental health challenges in survivors of IPV, namely mothers. This included instances of stress, paranoia, anxiety, depression, and post-traumatic stress disorder (PTSD).

Got very depressed, very anxiety ridden, had to go on medication. Scared to go out all the time. When I did, I was looking over my shoulder. Very paranoid. (Parent 09)

I've actually been diagnosed with PTSD, anxiety, and yeah, I think it was manic depression. (Parent 17)

I do suffer with depression, anxiety, and PTSD. So that was all heightened to begin with, so it didn't calm me, or at least with the situation, it just kind of heightened it. (Parent 08)

Oh except for the time that I was with that good lawyer for the year that just circumstance happened that I got her and then like I think three weeks later [child welfare agency] and them got involved and he was not allowed contact with her. She stood up for me. But outside of that and even right now, I don't feel safe. The one lawyer actually, she made me feel very like crazy. She had me second guessing my own sanity and my experiences and to be honest I'm surprised I actually made it through that time. (Parent 13)

My mom probably was really stressed. She's always, my entire life, had horrible anxiety and depression, like if something major triggers her that happens. (Young Adult 01)

Yeah, I'm going to say, I assume it was very anxiety inducing because my mom, obviously she wanted to keep us, the four blood siblings together... I think she was really worried about losing us. (Young Adult 02)

Community agency staff and criminal and family court personnel also underscored the mental health challenges they've witnessed in survivors involved in the criminal and family court systems:

So, at the end of the day, the person experiencing the violence, first and foremost, is left in a very confusing situation, which then could definitely impact their mental health. It can certainly impact their well-being overall, how they're parenting, internal conflicts, and typically could definitely lead to more violence. (Criminal and Family Court Personnel 09)

I would say we're seeing lots of impacts from non-offending caregivers such as depression, anxiety, fear. And completely isolated and a lot of confusion and a lot of wanting to know what the right thing is to do. (Community Agency Staff 01)

They're vulnerable to the power of the ex-partner and it takes a lot of strength to be able to work through the system. And whether there's supports in place or not, it still takes a lot of strength to go back to that story every day and work through it. So, I think that that whole piece tends to re-victimize people. And if they're already struggling with mental health or addiction issues as a result of their situation or in tandem with their situation, it just makes it that much worse. (Community Agency Staff 03)

Addictions

Participant groups also discussed the intersection of survivor substance use/abuse and involvement in the criminal and family court systems. Notably, substance use/abuse during involvement in court systems contributed to feelings of isolation and confusion and contributed to detrimental outcomes for child custody decisions.

It wasn't a very good situation at that time either for myself because I was already dealing with addiction issues... so that just added something else to the whole problem. Yeah. I was struggling, I had no support systems. (Parent 08)

It was very confusing for me at that time, and I was drinking. I remember drinking and I remember using drugs with him and I remember not knowing what some of the terminology was and what the consequences of making a statement was. I didn't know what those would mean. Or what it would mean if I make a statement and how important it was for me to stay in the shelter and not return home. (Parent 18)

The non-offending party for us often ends up being the visiting party here, I shouldn't say often, but sometimes will end up being the visiting party here because of whether there's drug and alcohol use that the other party can prove in court. And so, the offending person actually ends up with custody and the victim of the IPV becomes a visiting parent in our service. And that can sometimes be really hard for them to see. So, children are forced to stay with the offending parent and the other party is the one who is here doing visitation. (Community Agency Staff 03)

Discrimination

Parents and criminal and family court personnel also described the impacts of discrimination on survivors involved in the criminal and family court systems. Racism and sexism, in particular, were noted as being prevalent.

I present as being Indigenous, or look Indigenous, although I am Chinese and... the attempts that I tried to make and trying to navigate the criminal system as a means of trying to defend myself, and trying to advocate against the charges that were softly made against me... has been quite frustrating and challenging to know how to navigate. (Parent 20)

Half my family is Indigenous, half my family is white, so I've been on both sides. It depends how you talk to people but a lot of the times yeah, I do experience racism a lot. In the justice system, I haven't been involved in bad stuff but a lot of people I know and family they definitely do. (Parent 15)

I wasn't given any help to go to a safe shelter, they didn't even offer. So, I think that's lacking. And then I did try to ask if they could go get some of my stuff, retrieve it. They basically said, oh, we have other things to do, we don't have time to go. Yeah, so it was kind of swept up. I don't know if there's other reasons because of it, I don't know. It was two male cops. And they were Caucasian. I'm Aboriginal, so I don't know if that's got anything to do with it. (Parent 08)

There's barriers of systemic sexism and racism, yeah. (Criminal and Family Court Personnel 10)

Injury/Trauma

Participants underscored the impacts of trauma and injury on survivors of IPV—and how these factors can not only influence their experience in court, but their long-term wellbeing. The potential harm from unacknowledged brain injuries, in particular, was noted.

I just think that domestic violence, it really affects the mother and child. It's very traumatizing and it's a long healing journey, you know? (Parent 10)

The effects of trauma and abuse doesn't just end at a certain date. And sometimes, if you're fortunate, you're able to just brush it off and keep going. But I don't know, sometimes, like in my case, you know it can be a decade later, it can still be affecting you right? (Parent 16)

A large portion of the women who have been in domestic violence relationships have suffered some sort of physical trauma, and often domestic violence involves choking or asphyxiation or trauma to the head and almost never does anyone ever look for actual brain injury in domestic violence. No one's doing CAT scans or anything like that. So, you have women who are not only struggling emotionally from emotional trauma, but they might have actual brain trauma and no one's addressing these issues. (Criminal and Family Court Staff 11)

Financial Stress

Parents and criminal and family court personnel, in particular, noted that survivors were often impacted by financial challenges when involved in the criminal and family court systems in custody and access cases involving IPV, including dependency on social assistance, bankruptcy, and legal support issues.

I was on employment insurance (EI), I was on welfare... I was planning to go back to work after taking maternity leave, but then he told me not to tell them I was pregnant so then that affected me financially also too—and I wasn't honest, so I ended up losing my job. (Parent 10)

So, after the criminal charges were laid, family court dragged on to the point where I almost wound-up bankrupt. I'm unemployed, I've cleaned out my savings, so I now had to concede on some level with my ex-husband. (Parent 02)

And then... I think too the financial costs and burdens that this often has on parents, especially when they don't qualify for [legal service], it's just huge. So, how do I do this, how do I get the money, I'm gonna have to put a lien on my house and it affects people dramatically like it's just a big issue, so... it's just tough, it's so tough, trying to deal with these issues and get a divorce, especially when he's just up and refusing to participate in any way. (Criminal and Family Court Personnel 14)

When your family unit splits the financial pressures are great. (Criminal and Family Court Personnel 03)

Revictimization through the Court Systems

Community agency staff and criminal and family court personnel described how the criminal and family court systems can revictimize survivors of IPV. Revictimization often resulted from court practices that are not sensitive to survivor trauma, including forcing survivors to continuously reiterate their stories/experiences, increasing survivor contact with abusers through lengthy court processes, and enforcing custody and access decisions that may endanger survivors.

And so what we see there is women being continually victimized, or re-victimized, through custody and assess, like either having to... if it's a shared custody arrangement, when she delivers the children or because they have to continue to have contact, he, the ex-partner, will continue to use that as an avenue to abuse her, sometimes that's just with technology and sometimes it's actually physical if it's at an exchange of the kids. (Community Agency Staff 05)

From evidence gathering to interviewing, and repeating stories through the process with different parts of the system and having multiple people to deal with in different parts of the system, that can

be re-traumatizing for victims and children and brings them into further contact with their abuser. (Community Agency Staff 03)

They are usually pretty frustrated, you know, feeling sort of beat down by the system. They often tell me they feel like they are being victimized again through the court system, through going to court, even through the assessments. You know, it's not uncommon that when you challenge them on things they feel that you are challenging them on... their story, their experiences, as opposed to you know some sort of legitimate question. (Community Agency Staff 04)

A review of the structure of how the process goes would be helpful to make sure that there's nothing that's re-traumatizing to people who had a bad experience and have to keep on telling it to 20 people. (Community Agency Staff 07)

Yeah and to make sure that victims are not revictimized throughout the court process, you know, like there needs to be, if they're aware of the family violence, the ability to have separate courtrooms, or shuttles, or not requiring face to face meetings. (Criminal and Family Court Personnel 07)

Continued Abuse after Ending the Relationship

Participants noted that survivors experienced continued abuse after the dissolution of their relationships. Parents, community agency staff, and criminal and family court personnel emphasized that abusers often manipulated the court system to maintain power and control over their former partners.

Even having to file my taxes, I couldn't get the documents that I needed because he wouldn't let me have them. So, they were mailed to me, he'd hold onto them, and so I actually had to claim status as a battered spouse, battered woman, so I could be exempt from these certain forms so that that kind of made it difficult, because then I got audited a few times after, right. (Parent 16)

We've been in family court for eight years and he filed right after we separated and it has been a mess ever since. We've had, I don't know, 15 case conferences, maybe. We've had several motions. We've had a trial. We have another trial upcoming, like it's endless. Yeah, like he's abusing me through the legal system right now. It's really what he's doing. (Parent 12)

The other party often will manipulate the process if they have better representation. Even just dragging it out, you know, leaving the multiple parts of the system and the paper trail and everything else to continue to drag it out, to continue to have that control. (Community Agency Staff 03)

If someone has money and they are abusive it can make it very difficult for a woman who can't afford to hire a private lawyer. Not to say that [legal service] lawyers are awful or anything, but the woman doesn't have the resources to pay for all these legal things... people who have money can use the legal system to their benefit. (Community Agency Staff 06)

So, I mean, what I've seen in the past is a lot of laws and policies that have been put in place to try and protect women that have actually been used against them in the end because the abuser is more... he's more manipulative, he uses the system in a way to turn things on them (victims) and gain more strength and ability to further punish... like I see the abusive partner use the family court system as a way to punish and control. (Criminal and Family Court Personnel 11)

It's clear to me—and to her as well—that he's using the system, and the child actually, as sort of a form of punishment... and is able to do that (abuse the system) and I've seen that and I've heard it from other colleagues that I've worked with that have had that same scenario and that's... I see it far too often and these victims are left battling the family court system. Often they don't have the

upper hand or the financial resources to do so, so they're already at a disadvantage and they've essentially lost their child to that partner. (Criminal and Family Court Personnel 13)

Returning to an Abusive Relationship

All participant groups noted that survivors may feel pressure to return to abusive relationships, for multiple reasons. This included intimidating shelter environments, financial considerations, fear of retribution from abusers, and concerns surrounding child welfare or losing contact with children.

I mean there's women's shelters and I've been to [shelter]. The first time I went to [shelter] I think I ended up there for four days, three days, and then went back to him cause I was like forget this. Because being there, like I actually went there again in April and I was there two and a half months and it became home but when you walk into those places like [shelter] it's very intimidating and you end up not wanting to be there. (Parent 04)

I know historically, I was looking at this, dealing with folks who are coming into shelter and being faced with child welfare concerns immediately upon entering, which, you know, more often than not will push them back to the situation they were in. (Community Agency Staff 03)

She will get quite a bit of pressure to still send the kids to have a meeting or a visit with dad at some point during her stay, but if he doesn't return the children, there is no court order in place, so he doesn't have to bring them back. So that's another way that manipulates her to go back because now he has the kids and he's not going to give them back and if she wants to be with her children she has to go back. (Community Agency Staff 05)

Even though they're away, there's that pressure, the constant pressure. Now, you do not have the same financial support as you did in the past. So, there's that pressure to return to the same old place where you ran away from. And then there's consequences afterward. More violence occurs. (Criminal and Family Court Personnel 03)

Issues Related to Children

Participants identified several issues relating to children's involvement in the criminal and family court systems in custody and access cases involving IPV. Such issues included the impact of violence and trauma exposure on children, as well as positive and negative practices regarding children's involvement in court processes.

Children Exposed to Violence

Exposure to violence had many impacts on children according to community agency staff, criminal and family court personnel, parents, and young adults. This included detrimental impacts on mental health, relationships, and even day-to-day functioning later in life as adults.

- *Impact on Mental Health*

Parents noted that being exposed to violence had a detrimental impact on children's mental health—regardless of whether children were specifically such targeted for violence or not. Struggles with anxiety, in particular, were frequently discussed.

We were worried. Her hair was falling out, she was having anxiety, big time. She now chews her nails down so very short. She doesn't want to go so when it's Saturday night she's already worried about Sunday when she has to visit... so we've seen all kinds of things, from anxiety and

fear to physical stress with hair falling out. The chewing of nails, the lack of sleep, all kinds of things. (Parent 02)

Anxiety, mental health issues. Like a lot of it is unresolved. And emotionally because they have to go from you know where they feel safe to being unsafe. So there's a lot of mixed emotions for them. (Parent 17)

She has anxiety about how things are going and about the exchanges. (Parent 12)
It wasn't until like later on when he was a teenager and stuff—that's when he told me that he had anxiety attacks and panic attacks. (Parent 03)

Young adults shared their own experiences with anxiety after being exposed to violence:

It had an effect on my mental health. In grade nine I started seeing the school psychologist. I had a few admissions to the [psych ward]. Like the child and adolescent unit. And I was diagnosed with an anxiety disorder because of what I've experienced growing up. And then it turned into a psychotic disorder. (Young Adult 03)

Yeah, when I was a bit older, like maybe around seven, I started getting really bad anxiety. I think my depression started developing or something around then. When I was about 13 I ended up getting diagnosed with depression/anxiety. (Young Adult 01)

Additional challenges such as behavioural issues, suicidality, PTSD, depression, self-harm, and substance abuse amongst children were also noted by parents and young adults:

Well, like I mentioned earlier, I started acting out. So that's the impact it had on me. (Young Adult 03)

My older girls won't even talk about him. My one is suicidal because of him, because of PTSD and memories and things like that. She has a lot of mental health that we deal with because of things that she saw. (Parent 04)

She is very depressed, very. She does self-harm. She had substance abuse at the age of 16. Substance abuse that led to a psychotic break, she was in the psych ward for eight months and then at [mental health support agency] for about another eight months. It's been long lasting, a lot of it stems back to, basically to her daddy disappointing her. (Parent 09)

● *Intergenerational Violence*

Criminal and family court personnel emphasized that children exposed to violence were more likely to be involved in the criminal justice system later in life, repeating the violent patterns that were modeled for them in their childhood. The likelihood of children later becoming *perpetrators* of violence and crime was specifically noted.

Often kids when they're still youths, become involved in the criminal justice system. When they've grown up in abusive homes or seeing intimate partner violence in the home, they often become involved in the system as offenders themselves. And not just intimate partner violence, but like other kinds of criminal behaviour. (Criminal and Family Court Personnel 10)

They'll talk about how he (offender) grew up in a violent home and his father was abusive and so it's all this intergenerational abuse that happens over time. (Criminal and family Court Personnel 14)

She's gonna stay. And so she's vulnerable and her kids are vulnerable and her kids are gonna see this violence and it's gonna repeat in the next generation and on and on. (Criminal and Family Court Personnel 11)

● *Impact on Parent-Child Relationship*

Being exposed to violence impacted parent-child relationships in numerous ways. Participants described varying impacts on relationships between non-offending parents and children—with some noting that their relationships had not been impacted, and others describing positive or negative impacts on their relationships.

No, I don't think my relationship with my girls, it wasn't impacted. But they did have a level of resentment when I first quit drinking. They had a level of resentment that I had to talk to them about because we had to stay with him for so long, when I should have got out. (Parent 18)

We're very close. We're very, very close. And if anything, it might make her more fearful, so when I do my jobs now I can't be away from home overnight because she's scared I might not come back right. (Parent 02)

My relationship with the kids, it's been stronger now as they've gotten older. (Parent 17)

It was a bad impact. Because when I thought my mom was holding, was keeping my dad away from me, there was a bad impact there because I thought this whole time my dad was trying to reach out to me, that I should have went to go live with him. That my mom kept me like just to be petty. (Young Adult 02)

Parents also noted the impact on relationships between offending parents and children. Being exposed to violence was seemingly detrimental to these relationships, with many children exhibiting negative feelings towards offending parents:

My one daughter is very angry with her dad, the other daughter is very frustrated and they feel isolated from their dad. They feel like their dad doesn't care about them. Yeah, watching them struggling is very heartbreaking. (Parent 18)

My 13-year-old daughter doesn't want to see her father and she doesn't have a relationship with him. She knows he's exhibited anger towards her when she doesn't agree with him or doesn't do what he wants and she doesn't want to see him. (Parent 02)

The February of 2020, my son was adamant he didn't want to see his dad anymore. He didn't feel safe and he's articulating it... my son was making himself physically sick all the days he had to go with his dad and he refused to get in the car for me to take him to school because his dad was picking him up from school. (Parent 19)

● *Making Disclosures Against Parents*

Young adults described the confusing, and sometimes frightening, process of making disclosures against parents in custody and access cases involving IPV—noting that they often did not fully understand how their disclosures would impact their family.

She would ask me like, I remember checking in like, hey how's things going on at home, did anything happen? And I remember telling her, like this is still when my dad was still living with us, yeah this happened, like my dad hit my mom or, yeah my dad was yelling at my older sisters and calling them names. And I remember her writing, taking notes, and like I didn't really understand confidentiality when I was that young, but like, now that I'm older I understand that I was disclosing emotional and physical abuse to her. (Young Adult 03)

I didn't want to tell the cops everything. I didn't want to share everything because I felt like they were going to take me away from my mom. (Young Adult 02)

I was kind of scared about it. I remember when they asked me about how my dad was being abusive to me and my siblings... I remember being scared to tell them, because I was scared they would tell him, your son said you hit him. (Young Adult 02)

● *System Involvement*

Participants described how different facets of the criminal and family court systems responded to children that have been exposed to violence. Police involvement with children centered around safety planning, as well as making the appropriate referrals to other agencies, such as child welfare services:

We go there and we know that the children are being impacted 100%, but our focus really becomes safety planning and keeping them safe at that point... sometimes you can see that the children are scared and a lot of times they're scared because police are there too right. (Criminal and Family Court Personnel 08)

There's almost always [child welfare agency] involvement in terms of the police making a referral to [child welfare agency]. (Criminal and Family Court Personnel 12)

Child welfare agencies were described as having a direct role in ensuring children's wellbeing, representing children's interests, and assessing risk levels for children at home:

Now if a child is involved, [child welfare agency] gets in the middle. Unless the other parent was protecting the child, [child welfare agency] will get involved and then they'll have a voice, children will have a voice. Courts, again as I say, if a child is 12 years and up they will get a chance to have a lawyer represent them. That's another voice that they will have. Somebody will speak up for them. (Criminal and Family Court Personnel 03)

Once [child welfare agency] becomes involved, their role is to assess the level of risk in the home and to ensure safety in the home. (Criminal and Family Court Personnel 12)

● *Long-Term Impacts*

Young adults described the long-term impacts of being exposed to violence as a child. An array of mental health and behavioural challenges were noted, which had detrimental effects on their personal relationships, professional lives, and education.

I'm just always tired and always exhausted, and I'm pretty sure it's just from my depression. (Young Adult 01)

I have triggering anxiety. I don't want to share too much, but yeah, I have anxiety and I get depressed sometimes. (Young Adult 02)

I have outbursts of violence. But I don't hit things or myself as I used to do. It used to impact me a lot when I was younger, that's why I was using substances a lot. But now I have come to terms with it all. Just kind of try putting it in the past. But I guess I could still see instances where those past events still kind of haunt me to this day. I have one daughter and I have another daughter on the way. I just feel like I'm not being a good dad because I don't know how. (Young Adult 02)
It also effected the way that I trust people. Like that way that my mom was treated by my dad, like I'm worried that might happen to me. (Young Adult 03)

Children's Best Interests in Court Systems

Participants described several practices that ensured that children's best interests were taken into consideration in the criminal and family court systems.

● *Hearing Children's Voices*

Community agency staff and criminal and family court personnel described conducting interviews and assessments with children to ensure that their voices were heard, and their perspectives were presented to the courts.

We do a service here called Voice of the Child Report. It's specifically for children, it's supposed to be for children 12 and up... sometimes judges will ask children as young as 9 to be interviewed. But basically with that type of assessment we interview the parents just briefly to provide some background then we do an interview with the children to present their voice to the court, and as opposed to an assessment where I would make recommendations on what should happen, we only make suggestions. That's really the thrust of it is to sort of honor the children's voices and let the court hear what they have to say. (Community Agency Staff 04)

When we do assessments, we do interview children, we observe them with their caregivers. We query about their life and their family life and how they're experiencing it and if there's any challenges or issues... sometimes they disclose things that are really concerning, right? Like I had a client, a young boy, that disclosed sexual abuse by his dad, so I had to report to [child welfare agency]... so in that sense we have to do (due) diligence and respond appropriately. There's also the brief consultation report for children above the age of eleven where it is focused on the voice of the child. (Community Agency Staff 10)

The views of the child are made known to the court if appropriate in other ways, such as, for example, the child being interviewed by a social worker from [conciliation program]. (Criminal and Family Court Personnel 02)

I guess the interviews that they had with each of us really, really determined the outcome of what happened with the family courts. So I feel like that's literally what we shared with the workers or whatever, that determined everything and why we stayed with my mother. (Young Adult 02)

● *Supports for Children Testifying*

Criminal and family court personnel detailed the supports available for children testifying during the court process, including child friendly court rooms and aids and accommodations such as support personnel, therapy dogs, and screens to shield children from the accused.

There's the Manitoba Victim Bill of Rights and the Canadian Victim Bill of Rights, and part of that is there's stuff in place to assist children in testifying. So children have a right to have a support person sit beside them when they testify, they have the right to a screen so that they don't have to look at the accused, and they have a right to have their video be played in court so that they could adopt the video as their testimony. We also have a support dog in [city]. (Criminal and Family Court Personnel 11)

We have some specialized child-friendly courtrooms, which I think are very important and very helpful. I don't think we've got quite enough of them, but try our best in that regard. The law has advanced as well in terms of various protections that were available regardless, but now they are much more common I guess, in terms of being able to testify out of the site of the accused, whether it's behind a screen or CCTV. (Criminal and Family Court Personnel 05)

We have certain courtrooms that are set up to be child-friendly courtrooms. We have our therapy dog, which something as simple as having a therapy dog in the courtroom is such a relevant development that didn't exist before a couple years ago in terms of making it easier on children who have to be involved in the process. (Criminal and Family Court Personnel 02)

- ***Placing Conditions on Offenders***

Criminal and family court personnel also noted that conditions were often placed on offending parents to limit their access to children and protect children from any further harm.

The sort of most obvious example I can think of is conditions that are placed on offenders, um in terms of no contact or restricting access to the family home or to the partner or the children in the home. I think that the court takes children into consideration in that regard to try to protect their safety from offenders. (Criminal and Family Court Personnel 10)

I find that they are issuing those conditions protecting the victims when it's appropriate, and at times that includes placing conditions, protecting children within the household too, right? I know that, you know, at times I'm sure that there's some reluctance to restrict access to a parent but I find that more often than not they're putting those conditions in place. (Criminal and Family Court Personnel 08)

Negative Impacts of the Court Systems on Children

While participants noted that the criminal and family court systems took various measures to ensure that children's best interests were considered, there were also ways in which these systems negatively impacted children.

- ***Not Considered Victims***

Criminal and family court personnel and parents noted that the criminal court system often did not label children as victims in cases involving IPV unless they were directly involved or injured by such violence. This practice was described as detrimental to children's wellbeing when considering that sheer proximity to violence can be harmful to children, despite not being directly involved.

Yeah so when children are present for the incident, they're typically not labelled as victims unless they've been physically hurt by the accused person. So that's one thing that I think needs to change because when children witness abuse, they're impacted whether they were physically hit or not, right? We all know this. (Criminal and Family Court Personnel 14)

The criminal courts are dealing really only with the charge incident—more so with the accused and the offender... when it comes to child access and custody and things like that or the involvement of children, courts don't generally look at that unless the children have been a witness to things that have happened or a victim of it. (Criminal and Family Court Personnel 13)

The criminal court system did not acknowledge the children at all. I am guessing because they are young and because the charges weren't against or involving them, even though they were in harms way with some of the stuff that he pulled. (Parent 14)

- ***Not Hearing Children's Voices***

While the interviews and assessments with children in the court systems did provide an avenue for children's voices to be heard, community agency staff and criminal and family court personnel noted that more could be done to incorporate children's perspectives in the decision-making process.

The weight given to a child's voice is not always as strong as it could be. (Community Agency Staff 03)

The children are... not the drivers, so they will have no say and their voices won't be heard. (Community Agency Staff 05)

I think we're getting there slowly but I just don't think it's enough for the kids and there's no voice for them per se, in cases where the charges are before the courts. It goes to sentencing, the victim has the opportunity to write a victim impact statement, there's no talk of what the children might have to say about the incident or how they've been impacted. (Criminal and Family Court Personnel 14)

● *Children's Interests Being Overlooked*

Community agency staff also described instances where children's best interests were assumed, or overlooked, by court personnel.

I believe that the courts make their own assumptions as to what the child's best interests are without actually acknowledging the child. (Community Agency Staff 09)

It's certainly intended as a priority, but I would say children get lost between parental rights and conflicting stories and the power imbalances and abilities of either party to use or pay for their use of the system and whether or not they can afford a better lawyer and how long they can drag things through the system. And I think that tends to go against the interests of children sometimes where it's more about the power and the control of a partner than the needs of the children. (Community Agency Staff 03)

It seems that their interest is about legal stuff and I think a lot of the best interests of kids get missed with that sort of thing. I don't necessarily think that they have a good understanding, you know, very often when we interview kids they ask, what is the court going to do based on my opinion? And I have to tell them I don't know, it really depends on which way the wind blows. There have been situations where I have outlined what I thought were pretty big concerns and the court will just sort of ignore that kind of stuff if that's what they choose to do. (Community Agency Staff 04)

● *Limiting Access to One Parent*

Participants noted there were certain instances where children had limited access to one parent on account of the parameters outlined in protection orders. While these orders provided the benefits of safety for non-offending parents, they simultaneously prevented children from maintaining relationships with offending parents, in some cases.

I think although the benefit of a protection order is to ensure that people are safe, but then there's also kind of the double-edged sword where it separates families and doesn't allow families to have that interaction, like I think sometimes it's used to keep families apart as well and I think that that's impactful on children not able to maintain those relationships with the other parent. (Criminal and Family Court Personnel 04)

I put up a protection order for three years. I mean a person can change a lot during that time and then it's basically up to like me to realize the change and go back and have it changed, which I don't think is right. I almost feel like they should relook them at some point, especially when it's coming to those kids because they're not having that relationship with their dad until it's all appealed. I feel like they lost a lot of time in there when he was pretty stable to be able to see him. (Parent 04)

Compromising Children's Safety

Each participant group noted that children's safety could be compromised by having increased contact with offending parents, whether through access/exchange, or forced visitation due to family court orders.

● *Access/Exchange*

Participants stated that access/exchange with violent parents could endanger children—particularly if these parents are granted unsupervised access, or if exchanges are particularly volatile or abusive.

To allow a violent person to have unrestricted access and unsupervised access, unstructured access, to their children is dangerous. (Criminal and Family Court Personnel 11)

I was trying throughout the whole time to get supervised access because I felt he was a danger. People have actually called [child welfare agency] on them for different things. (Parent 07)

Well, I honestly feel like you know my daughter was put in harm's way, way more often than she needed to be. She witnessed a lot more aggressive behaviour. You know, basically witnessing sort of all this behaviour being sort of allowed around her, right? We're doing these high intensity exchanges, and she's the one that's in the middle. (Parent 13)

● *Forced Visitation*

Community agency staff and criminal and family court personnel also noted that family court orders enforced visitation with violent parents, despite children not wanting to visit or being afraid to go. In these instances, non-offending parents were often encouraged to comply with visitation, as outlined in family court orders, to avoid any possible legal ramifications

Children are being forced into visitation that they don't want or that they're afraid of but feel like they have to go because otherwise there's legal consequences for the custodial party who have to call us and say they're not coming. And if they give a reason, it creates more conflict. And sometimes it's easier for them to say, yes, fine, I'll go. (Community Agency Staff 03)

Kids are being forced to go on visits that are unpredictable... so really it's a lot of uncertainty I would say for the kids, like that feeling of not knowing and not having a say. Not being able to say no I don't want to go, because we... and I hate saying this... but we strongly encourage the women to follow that family court order, even if she is scared. (Community Agency Staff 05)

They're calling us saying "what do I do? The kids don't even wanna go but I'm supposed to send them and what do I do, force them?"... you hear about dad's rights and you know they're being told "well he has rights to see his kids" but I think safety has to be paramount. You shouldn't have the kids telling you they don't wanna go, right, but again, mom has this fear that if I don't send them, they're gonna be taken or I'm gonna lose custody, you hear that all the time. (Criminal and Family Court Personnel 14)

Parents and young adults described their own experiences with forced visitation:

I was given visits with my dad, and I didn't want to. As the years went on, and I started to understand more what happened while I was younger, between my mom and my dad and my older sisters, I started to realize how much of a bad person my dad was. (Young Adult 03)

I'm pretty sure sometimes when I was smaller when I didn't want to go with my dad, my mom made me and like basically said that I had to go because he had visitation, his time to have me. (Young Adult 01)

I felt like I had told my story and I was documenting as much as I could, but in the long run the victim services worker had decided that we should be able to work this out on our own that I need to follow custody orders, despite the fact that my son was afraid to go there. (Parent 16)

Barriers for Children

Participants identified several barriers for children during their involvement in the criminal and family court systems which impeded children's understanding of their situation and wellbeing.

- *Lack of Child-Specific Support Services*

Community agency staff and young adults identified a lack of child-specific supports within the criminal and family court systems. The absence of advocacy personnel, to aid children throughout the court process and advocate for their needs, was specifically noted.

Assessments provide an opportunity for children's voices to be heard to a certain extent, but like again there really isn't... there's no advocacy for that child's voice apart from that. (Community Agency Staff 07)

An advocate that specializes in working with kids like us, troubled kids that wouldn't open up right away. I would just need a figure of trust to be able to trust to open up to the information, instead of feeling like I'm getting forced out of information you want. (Young Adult 02)

- *Parental Consent for Services*

When children can access services, community agency staff, criminal and family court personnel, and parents noted that consent from both parents was required. This presented a barrier to children's health and wellbeing—particularly because offending parents often withhold consent for supports such as counselling and mental health services.

Kids can't take part in counselling or programs unless both parents give consent and any time you bring up the child should do this because of the violence they witnessed, that sort of stuff, usually the parent who's been accused of it you know denies that it ever occurs, so they won't provide that sort of counselling. So we end up with a lot of kids who have gone through some pretty traumatic stuff who are unable to get their needs met because a) there aren't programs available and b) because both parents need to consent to it. (Community Agency Staff 04)

The child was not able to access mental health services because the other parent who was the alleged abuser would not allow, would not give their permission to have the child access therapy. And because the parents had joint custody, that child was being denied a service because their other parent who was mad about being accused of domestic violence and being separated. (Community Agency Staff 07)

Counseling is not approved because they need both parents' consent. (Parent 17)

- *Not Being Informed*

Both community agency staff and criminal and family court personnel acknowledged that children were not kept informed about what was happening to them, and their family, during various stages of the criminal and family court processes. This contributed to feelings of confusion and fear, and left children to gather information from second hand sources, which may not always be reliable.

They are afraid and confused... no one has really told them anything about it, all they gather is second hand information from random people like a counsellor or a [child welfare agency] worker

or their parents or something else like that without having actually being told anything that's true about the court system. (Community Agency Staff 09)

I think children are definitely stuck in the middle of their parents' conflict—in family court and in criminal court. I think they are vulnerable—like I think they're left to feel unsupported. I just feel like kids don't really know or understand what's happening with their families and like what it means when the court is involved with their family. (Criminal and Family Court Personnel 12)

Young adults described their lived experience with confusion and anxiety as court proceedings were taking place:

I didn't understand what was going on. (Young Adult 02)

Maybe like more transparency... like it caused me to have so much anxiety because I was always worried that we'd get taken away. If we were told that no, we weren't going to get taken away, we're just doing checks to make sure that everything is OK, like that would have been a lot easier on me. (Young Adult 03)

● *Children Testifying*

While aids and accommodations were previously noted as a positive practice for children testifying, criminal and family court personnel stated that certain practices can be detrimental for children during this process. Specifically, the ways in which counsel cross examines children could be improved upon—with questioning being described as confusing, or even traumatizing, for children.

One of the big things that just comes to mind as we are talking here, is the ability of the counsel asking the question, either crown or defense, to properly relate to the education, maturity, and sort of background of the child in a way that the child can tell their story. Often times they are pretty good, but sometimes you can just see that the use of a word or the way questions are being asked or other tonal matters, the child is just missing it. The worst would be a child just agreeing to all the comments because that's what they think they ought to be doing as opposed to understanding what it is that they are agreeing to. (Criminal and Family Court Personnel 05)

The way that defense are allowed to cross-examine children is highly abusive and damaging. Children are easily manipulated, easily confused, their memories are limited, all this kinda stuff, and defense is allowed to exploit that to create an unreliable witness in a child and so there should be some reform to that. (Criminal and Family Court Personnel 11)

Positive Practices

Participant narratives highlighted a number of positive practices that exist in relation to judicial and service provision responses toward families navigating the criminal and family court systems in cases of IPV. Positive practices included collaboration between agencies, various supports and services, and reforms within the family court system.

Collaboration Between Agencies

Criminal and family court personnel described collaboration and information sharing between agencies to provide effective responses to cases involving IPV. Victim services, in particular, was described as having a central role in the collaborative process. This is largely because Victim services liaises with various actors within the court systems, including the Crown, judges, child welfare agencies, and law enforcement, to ensure the safety of victims/survivors and their children:

The criminal court system, they rely on victim services a great deal, especially Crowns and judges. (Criminal and Family Court Personnel 13)

A huge part of our job is reporting to [child welfare agency]. In fact, yesterday I probably spoke to ten different [child welfare agency] workers on the phone. So they know us and when we get new charge files where somebody's been charged for domestic violence or assault or something like that and we see that children are present, we always do [child welfare agency] checks. (Criminal and Family Court Personnel 13)

I also work with [law enforcement agency] sometimes—I need them for certain things. (Criminal and Family Court Personnel 11)

Additionally, collaboration between victim services and community agencies was described in order to connect victims/survivors with useful resources:

I collaborate with a counsellor at a [community agency]. (Criminal and Family Court Personnel 04)

I do work with the school sometimes. (Criminal and Family Court Personnel 11)

Legal Resources/Referrals/Support

Parents described utilizing a range of legal resources, referrals, and support while navigating the criminal and family court systems. Most commonly, parents sought legal representation, legal information, and summary advice. Parents also described being referred to other agencies and information programs within the court systems, including victim services, child welfare agencies, parenting workshops, and conciliation programs

Referrals to community agencies and organizations outside the court systems were also noted by parents, including:

- Access and exchange agencies
- Parenting coordinators
- Addiction and recovery programs
- Shelters and emergency support services

Community-Based Supports

Throughout the interviews, community agency staff, criminal and family court personnel, and parents identified various organizations operating at the community level to aid families experiencing IPV. These organizations offer a variety of supports and services including safe spaces, counselling, and programming specifically designed for those experiencing and perpetrating violence.

Supports for Survivors

Community agency staff, criminal and family court personnel, and parents also described various supports available to victims/survivors of IPV. Supports for, and within, the court systems were frequently mentioned:

• *Legal Supports*

There's [legal service] and there's some resources in [city] where they will consult with women about custody issues. (Criminal and Family Court Personnel 11)

I used [women's resource centre] to get the first protection order. So that was helpful because they helped me kind of organize things, you know. (Parent 07)

- *Victim Services*

I think that, you know, individuals with intimate partner violence have good access to support services like victim services and stuff, so I think that's a positive of the system. (Criminal and Family Court Personnel 04)

- *Child and Family Services*

[Child welfare agency] is gonna be involved, so support through them. (Criminal and Family Court Personnel 14)

- *Law Enforcement*

The primary role for police is to obviously investigate those matters and to arrest when there are reasonable grounds to believe that an offense has been committed... and then obviously in addition to that I mean we provide safety planning and things of that nature too. (Criminal and Family Court Personnel 08)

Supports outside of the legal system were also noted, which largely addressed the safety, mental health, and wellbeing of victims/survivors:

- *Crisis Lines and Emergency Supports*

I mean, you've got the crisis line you can call. You've got [community support agency] you can call. You've got [community support agency] in [city]. (Community Agency Staff 02)

- *Community-Based Supports*

There are lots of services available through sort of the women's shelter systems and through some of the family resource centers and those kinds of community-based services. (Community Agency Staff 07)

- *Counselling*

It varies by community, definitely, but there are some counseling programs available. (Criminal and Family Court Personnel 10)

Supports for Children

Community agency staff and criminal and family court personnel described available supports for children. These supports were largely centred around counselling, which could be accessed through various agencies and providers, including:

- *Child and Family Services*

And the child welfare system also does have some supports available in terms of support and counseling for children and walking them through that. (Community Agency Staff 03)

- *Help Lines*

So yeah, like we have some of the resources that are on our website, so we have links to each of these different places. (Criminal and Family Court Personnel 08)

- *School-Based Supports*

The counselors at the school will help out the kids. (Criminal and Family Court Personnel 03)

- *Within IPV Shelters/Organizations*

I know our women's shelter provides counselling for women and children. (Criminal and Family Court Personnel 04)

Participants noted that counselling services were often tailored to children's development, with different forms of counselling being available for children of all ages:

So under the age seven, so six and under I work as a... play therapy and attachment and that kind of thing, with seven and up we do play therapy and counselling, verbal counselling. (Community Agency Staff 09)

Additionally, participants noted the importance provincial and national organizations—which primarily undertake advocacy, investigations, and research pertaining to child welfare. While these organizations may not work directly with children, participants noted that they provide valuable resources for personnel that do, including criminal and family court personnel:

Obviously the [national advocacy organization] is huge, I've done work with them before and they are huge resource for us. [Provincial advocacy organization] so there's quite a few actually. (Criminal and Family Court Personnel 08)

Supports/Services for Offending Parents

Community agency staff and criminal and family court personnel also described supports and services available for offending parents. Supports and services for offending parents were predominantly offered through community-based organizations offering male-centric programming and counselling services.

For perpetrators, there's the [parenting] program. [Community agency] you know, works with men. [Community agency] will also work with men and they will work with young boys— there's lots of agencies that work with men specifically. (Community Agency Staff 06)

Additionally, participants noted that offending parents may receive court-mandated supports to address their unique needs, such as anger management, mental health services, or substance abuse programs, if charged with an offence:

There's groups, you know for men but often, I mean I'm pretty sure that usually it's when you're charged, right... you'll be referred to anger management or various groups. (Criminal and Family Court Personnel 07)

They might go to programming which is referred or a referral. (Community Agency Personnel 10)

Supports/Services for Marginalized Populations

Supports and services addressing the specific needs of marginalized populations were noted by community agency staff and criminal and family court personnel. Various resources for Indigenous populations, in particular, were discussed:

Our Indigenous people, you have strong organisations who represent the Chiefs, the Northern Chiefs and they have people that will work with the offenders, will work with families. (Criminal and Family Court Personnel 03)

There is counselling available in [community agency], they have a holistic center where they have some counselors and they have people in the community, elders, that do cultural counselling. (Criminal and Family Court Personnel 14)

Supports and services specific to newcomer and LGBTQ+ populations were also noted.

Supports and Services for Custody/Access/Exchange

Community agency staff, criminal and family court personnel, and parents noted several resources within the court systems to aid families with custody, access, and exchange. Conciliation programs were noted as a specific resource for families seeking conflict resolution services outside of the traditional family court process for custody and access agreements:

When I filled out the papers for our custody stuff, I actually asked right off the bat if we can go to [conciliation program]. (Parent 06)

Parenting programs, which offer information on the impacts of conflict on families, parenting plans, and alternatives to court, was cited as a positive resource by many parents:

I liked the [parenting program] – that was good, it was very informative. (Parent 15)

It's good for people that really kind of need to see the eye opener and really see the effects of what happens to their kids. (Parent 13)

Participants noted that child welfare agencies may also provide supports in custody and access disputes if there is the potential for children to be harmed:

If there's a custody access dispute then [child welfare agency], you know, sometimes there's hesitancy to get involved but then there's also the acknowledgement that just cause custody and access dispute exists doesn't mean there isn't safety concerns. (Criminal and Family Court Personnel 12)

Additionally, for access and exchange agreements, participants noted that community-based services were available for supervised visits and exchanges for families experiencing high levels of conflict.

Positive Judicial Practices (Criminal and Family Court)

Community agency staff, criminal and family court personnel, and parents noted several positive practices that exist in relation to criminal and family court responses toward IPV and issues of custody and access.

Participants described the following positive practices in the criminal court system:

- *Specialized IPV Courts*

I think the principle of domestic violence court or diversion where offenders get counseling and help sort of like extra judicial measures or restorative justice are positive things. (Criminal and Family Court Personnel 10)

- *IPV as an Aggravating Factor in Sentencing*

The Criminal Code has been amended to say that it is an aggravating factor if intimate partner violence is involved... the jurisprudence is recognizing that more effectively these days. (Criminal and Family Court Personnel 06)

- *Zero Tolerance Policy (Mandatory Reporting)*

Mandatory reporting is good... what are they doing right... trying to hold people accountable... in a really general way, trying to send a message that this is—the abuse is not okay, that's harmful not only to your partner but to your children, I think is important. (Criminal and Family Court Personnel 12)

- *Protection Orders*

We certainly encourage people to make application for a protection order if it's appropriate and in those cases, you know, in my experience I've had a lot of success referring people to seek assistance of a protection order. (Criminal and Family Court Personnel 08)

Participants described the following positive practices in the family court system:

- *The Best Interests of the Child Principle*

It's clearly written everywhere right that the best interests are paramount. (Criminal and Family Court Personnel 07)

- *Separating the Perpetrating Parent from Children*

Where children are in danger, the children can be taken away and sheltered and protected quickly... the judicial system does things well where there is significant violence. (Criminal and Family Court Personnel 06)

I know that they are good at separating the perpetrator from the children. (Community Agency Staff 09)

- *Video-Conference Calling*

Well, now that they have the, the video conference calling, I didn't have to transfer my file from [town] to [city]. Which is nice because I don't have to travel anymore. And I actually don't even have to leave my house. So, I don't have to pay for parking downtown at the court office, I, you know, don't have to ask assistance for money to get to and from there, I don't have to take time off work. (Parent 06)

Additionally, within both court systems, participants noted that acknowledging IPV through education, training, and jurisprudence, was a positive development:

I think we have a number of good things in place. I think over the years, you know, additional research that has been done into domestic violence particularly and what that has shown and then the education that judges get and prosecutors get and hopefully defense counsel get about some of the underlying issues in domestic violence. (Criminal and Family Court Personnel 05)

There's a [legal organization] which puts on seminars for judges and each court in the province puts on seminars for judges. (Criminal and Family Court Personnel 06)

I think that the law is gradually recognizing the nuances involved in domestic violence and the fact that that is traumatic on the children. (Criminal and Family Court Personnel 06)

Policy

Community agency staff and criminal and family court personnel noted positive changes in family court policy at both the federal and provincial levels of government. Participants noted that these policies were beneficial in guiding custody and access decisions involving IPV, and in offering a new and modern approach to family separation.

Changes to the *Divorce Act*

At the federal level, changes in Canada's *Divorce Act* elicited a positive response from criminal and family court personnel. Reforms focusing on family violence, in particular, were seen as significant—putting IPV at the forefront of the decision-making process in family court in a way that has never been done before:

*I think that the amendments to the *Divorce Act* are very positive in that you know they're going to require judges hearing these custody cases to have to definitely consider intimate partner violence in a manner that maybe they didn't or to the extent they didn't in the past. (Criminal and Family Court Personnel 02)*

I think it's great, I think it's excellent. I think it has the potential to be extremely helpful for families. (Criminal and Family Court Personnel 12)

Participants specifically commended the expanded definition of family violence in the *Divorce Act*, which includes coercive and controlling behaviours. This was described as a positive step toward recognizing the nuances of IPV and the many types of abuse that victims/survivors and their children experience:

*Well I think that the reforms to the *Divorce Act* are very helpful in bringing family violence to the forefront... it has such an expansive definition now, the old school idea that it has to be physical or direct physical abuse is very outdated and their definition is all about just coercive control. (Criminal and Family Court Personnel 07)*

Additionally, including family violence as a specific factor that courts must consider when assessing the best interests of the child in custody and access cases was described as a positive change. While Manitoba was one of four provinces that already included family violence in these considerations, federal legislation guiding a uniform practice across Canada was seen as an important development:

The legislation is supposed to have a significant impact on the amendments to the Divorce Act which will change specifically... exactly what judges have to consider, you know, so legislatively they will have to take into consideration family violence in determining [children's] best interests. (Criminal and Family Court Personnel 07)

Family Law Modernization Project

At the provincial level, Manitoba's Family Law Modernization Project was described as a promising initiative by community agency staff and criminal and family court personnel. The project, which introduces a new dispute resolution service for families, is still in its initial stages. However, participants were optimistic of its potential to modernize the approach to family separation and family violence:

So it's a little early to say, but anything that takes family disputes out of the justice system is a good idea in my opinion. (Criminal and Family Court Personnel 06)

If that whole project takes a serious look at how does IPV and how do families and children who are victimized go through the process or something in it, I think it'll be a really positive thing. (Community Agency Staff 03)

Participants noted the project's potential for positive impacts including a shorter timeframe, less expense, and less trauma for everyone involved:

So this process is supposed to shorten that, it's supposed to make it less expensive, it's supposed to make it less harmful to the people involved, like not only to the adults, but especially to the impact that it has on children. (Community Agency Staff 06)

Additionally, the project was described as being a more inclusive alternative for diverse cultures, in comparison to traditional legal processes:

And that's the other thing too is that what the law modernization process is looking at is respecting other cultures ways of what they consider to be... to bring families together and that might be a sharing circle or you have like the community involved where everybody sits down and whether it's the victim, the perpetrator, everybody who's involved, to heal as a community. (Community Agency Staff 06)

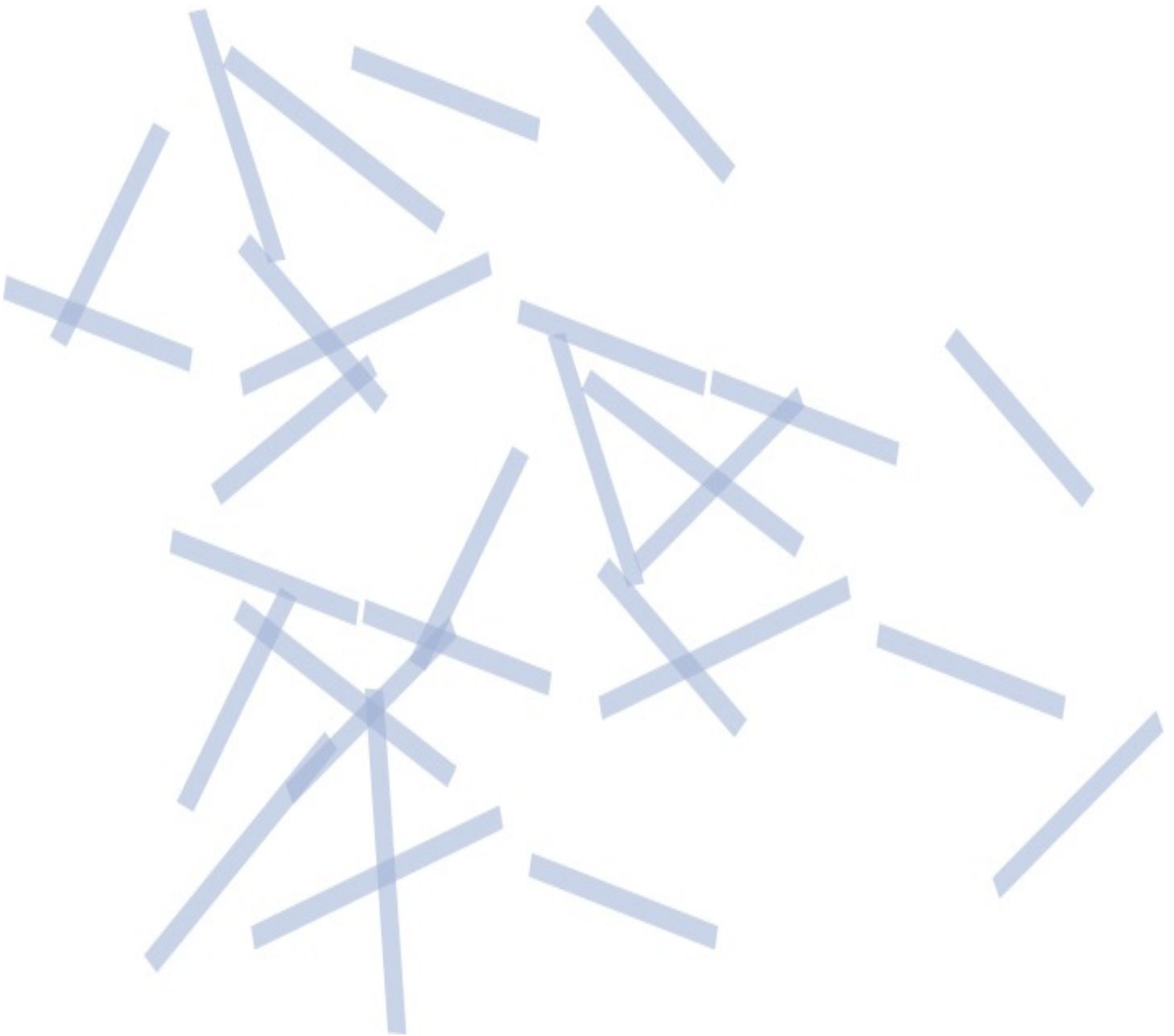
Mediation in Family Court IPV Cases

Community agency staff and criminal and family court personnel also emphasized that mediation can be a good alternative to the adversarial court process—enabling families to resolve disputes without the stress, cost, and complexity of traditional family court procedures. Mediation was noted as being appropriate for “low conflict” cases, in particular, and within environments where staff was trained and knowledgeable in issues of IPV:

You know in mediation, which in my experience does work better for people and does allow peoples voices to be heard and sometimes for children's voices to be heard. (Community Agency Staff 04)

I think that mediation can be appropriate if you're looking at IPV on the continuum or the spectrum and on the low end. And I think the mediators need to have a real specialized training in

IPV especially beyond the physical aspects of it... about all the other psychological, emotional things that go on... but I think that mediation would be helpful if it eliminates the need for a family lawyer because that is a huge, huge stumbling block for people. Especially if they can't afford a lawyer or if they're just getting a terrible lawyer through [legal service]. (Criminal and Family Court Personnel 13)



Improving the Response to Families Navigating the Criminal and Family Court Systems in IPV Cases

During the interviews, participants were asked for recommendations to improve the response to custody and access cases involving IPV. Participants offered a range of suggestions relating to resources and services, education and awareness, and court system responses to IPV.

Expand and Develop Existing Resources and Services

One of the most frequent recommendations made by participants was to expand and develop existing resources and services for those involved in custody and access cases involving IPV—particularly for victims/survivors.

The problems are the resources. There's only so much they can do. There's not enough to go around. That's all. Simple as that. (Criminal and Family Court Personnel 03)

- Provide more resources and services for victims/survivors of IPV. This includes:
 - Shelters
 - Counselling and mental health services
 - Access/exchange agencies
 - Financial supports
 - Legal supports and assistance navigating the legal system
 - Parenting coordinators
 - Long-term supports

There needs to be more funding for shelters that offer counseling for women and children. (Criminal and Family Court Personnel 06)

And sometimes you see people going back to the same thing where they came from because of financial needs. So, the financial supports, governments ought to include that – part of the whole process of shelters, financial and other supports need to be there. (Criminal and Family Court Personnel 03)

Definitely there needs to be... more resources for [legal service], or better support that way. (Community Agency Staff 05)

Participants also recommended expanding and developing resources and services specifically for children—noting that children lack adequate supports during what is often a difficult and confusing situation.

And the kids who've observed it (IPV) or experienced it—unless it's a child abuse manner—there's not a lot of services for them out there. (Community Agency Staff 10)

- Provide more resources and services for children in custody and access cases involving IPV. This includes:
 - Child counselling and mental health supports
 - Child advocate personnel

- System navigators for children during the court process
- Specialized child welfare responses for children impacted by IPV

I took my oldest two daughters did a couple counseling sessions, but I reached out on my own. Like, there were no resources that were offered to me for that. I believe that more resources need to be available for children. (Parent 11)

Allowances of support persons, such as counsellors or advocates that are outside of the family for the children to support, but not to talk for the children, just to see that there is somebody there for them, specifically for their own needs. (Community Agency Staff 09)

Specialized child protection services that focus on IPV and have a better understanding of that and supports in place that ensure that children are protected. (Community Agency Staff 03)

Lastly, participants recommended expanding and developing resources and services for perpetrators of IPV, noting that the issue of IPV will never be resolved unless it is treated at the source. Participants specifically suggested expanding perpetrator support programs in order to help establish healthier relationships:

I guess it would be nice to have support but for both sides. You know, not just on the quote-on-quote victim, but also for the person who is kind of causing all the problems. (Parent 07)

And I think one of the things that I maybe haven't focused enough on in terms of perpetrators is everybody talks about support and counselling assistance to victims and children, which is critical. But, I think if we put more time into providing some support and addressing issues for perpetrators, and whether that's, you know, in terms of the family unit or just their own issues going forward, whether this relationship ever continues or not. (Community Agency Staff 03)

Increased Education and Awareness

Participants also underscored the need to address gaps in knowledge and awareness of IPV in the criminal and family court systems. Increased education on the issue of IPV, including mandatory courses on IPV and its impact on victims/survivors and children, were recommended. This was noted as a crucial step in effectively addressing the nuances of custody and access cases involving IPV.

Education, I think there needs to be a lot more education. The decision makers, the judges, that sort of stuff, and in general just for the court system to be a little more understanding and to put priority on making these people feel comfortable and heard and not traumatize through participating in the system. (Community Agency Staff 04)

I think that family lawyers and the judges should have a mandatory domestic violence course. They should go through stats; they should look at the numbers and understand the statistics of trying to leave and being killed. (Parent 13)

Perhaps a little more education amongst judges as to the impact of intimate partner violence on children. (Community Agency Staff 07)

Address Barriers for Marginalized Communities

Participants noted that marginalized communities faced unique barriers when involved in the criminal and family court systems, including not having equitable access to resources and services and access to justice issues. The need to address the address specific issues for Indigenous communities, newcomer populations, and people with mental and physical disabilities, were specifically underscored.

People living on First Nations communities, which is a lot of the area in which we serve here, are in many ways a marginalized population and the supports are even worse, and in some cases nonexistent. (Criminal and Family Court Personnel 10)

We have two First Nation communities as well, even more difficult as well, there's not... the services won't be near them, if there are services, if they can find something, and often times they won't be able to access them because they don't have a car, they don't have a driver, they don't have money for gas. (Community Agency Staff 05)

The other thing is they need to have... they need to have women's shelters in rural areas—because there are shelters in major rural cities, but the.... Indigenous reserves, right, so... you want them to leave their reserve, which they may never have left, go to a city which they are scared to go to, where they are going to be experiencing racism—yeah and they're going to go in an institution, like a shelter, that is geared towards, you know, a white version of therapy, right? So it's gonna be a colonizing experience basically. (Criminal and Family Court Personnel 11)

- *Facilitate the legal process for newcomer populations by addressing language and cultural barriers*

I think that they might not know what resources are available out there, they might not have access to those resources, sometimes culture, language barriers are a huge factor, yeah. (Community Agency Staff 10)

One of the populations that I've been working with a lot recently is newcomers, and when you have IPV issues, family court issues, you also have immigration issues, which brings in a whole other area of the law which, again, we don't communicate with, right? And especially in the criminal courts, that can have an impact on immigration status and people's application for immigration if they're refugees and whatnot. Plus, there's language issues and we need support around even just being able to communicate about these complex things in your own language. So, I think there's a real need for that because we definitely are seeing an increase in newcomers as victims of domestic violence, and they do have specialized needs. (Criminal and Family Court Personnel 13)

- *Provide appropriate accommodations for people with mental or physical disabilities*

Access to resources and supports that are available. As well as accommodations. I am autistic and trying to navigate through a legal system that is highly nuanced and has many specificities as far as the laws and regulations pertaining to those laws. And how to act within a court is quite challenging, and the assumption that people know what they are... like what is available to them is quite an assumption that was made. (Parent 20)

In terms of children with disabilities there needs to be more involvement where they have government agencies to be that advocate for that child. Because people with disabilities, their rights are severely overlooked in the legal system and there's not a lot of help. (Parent 02)

Improve Court System Responses

Participants detailed the challenges of navigating the criminal and family court systems in custody and access cases involving IPV. A range of recommendations were provided to improve the response to these cases, and make the process more effective, efficient, and safe—particularly for victims/survivors and their children.

- Improve court system efficacy and efficiency in custody and access cases involving IPV. This includes:
 - Faster resolution for cases
 - Improvements to the legal service system
 - Practical accommodations (i.e., childcare, financial supports, etc.)
 - Mandatory mediation
 - Mandatory family assessments
 - Ongoing safety/risk assessments for victims/survivors
 - Ensuring financial supports are paid (i.e., cost awards, child support)
 - Improved coordination for criminal and family court orders
 - Police enforcement of custody orders

Oh my god shorter time—it's taking so long for everything. (Parent 15)

I think a family assessment should be mandatory, so the picture is seen from the beginning. (Parent 14)

When you have a criminal order, like you have a protection order in place, it needs to jive with the family order. (Parent 12)

When I think about the custody orders—police don't enforce them... we get lots of police reports where mom will call because the kids were supposed to be dropped off at five o'clock, dad didn't drop them off, she's worried about her kids, they have this custody order, police will go check with dad (and) make sure the kids are safe and okay, but if there's no safety concerns, they'll just tell her to go back to family court. (Criminal and Family Court Personnel 14)

Participants also recommended implementing specialized measures within the court systems to address IPV, in order to better address the complicated nature of these cases and challenges that come with them.

- Implement specialized court system responses to cases involving IPV. This includes:
 - Specialized IPV screening tools for the legal system
 - Specialized legal programs for victims/survivors
 - Court-mandated parenting programs for perpetrators of IPV

Most of the screening tools that have been developed are for healthcare, you know, or mediators, but there's nothing designed specifically for family lawyers and there's no mandatory—there's no screening being done like lawyers are doing it if they want to, you know, and there's no consistency. (Criminal and Family Court Personnel 07)

The other key for me is the legal representation, I guess—finding ways that people are better supported through the system if they can't afford good legal representation. [Legal service] is very important, but I think having specialized [legal service] for victims and children would be important. (Community Agency Staff 03)

And then in the courts when matters do proceed, I still think there should be, whether it's through diversion, restorative justice, or probation, there has to be that expectation that they attend, participate, and complete counseling regarding parenting, better fathering, and the impact of domestic violence on children. (Criminal and Family Court Personnel 14)

Increased Collaboration between the Criminal and Family Courts

The lack of communication and collaboration between the criminal and family court systems was noted as a major issue for those involved in custody and access cases involving IPV. Participants recommended establishing a mechanism for communication and collaboration between the courts to more effectively address instances where parties are involved in both systems simultaneously.

Put the necessary financial resources into putting the infrastructure in place in terms of courts so that family courts are aware of what's going on in criminal proceedings involving the same parties and vice versa. (Criminal and Family Court Personnel 02)

I think the first thing for me is the coordination across legal systems and I know how impossible that is, but I think we're at stage where, you know, even information and technology wise, we can make it easier for victims and particularly for children. (Community Agency Staff 03)

I think that there needs to be more communication between the criminal and family courts and maybe when there's criminal charges that all needs to be encompassed in the family courts. They're not communicating, one system's being used against the other, neither lawyer has a good understanding of the other system, and there's so much miscommunication and lack of connection that the accused person is running circles around everyone. (Criminal and Family Court Personnel 11)

Participants also recommended a mechanism for increased communication and information sharing between all actors in the criminal and family court systems in custody and access cases involving IPV. This includes the Crown, victims services, child welfare agencies, and law enforcement.

I think it would be helpful for information to be shared more openly and quickly between... for example, police agencies, the Crown, victim services, [child welfare agency]. There are some barriers with protection of information, which is also important, but there's often a gap between when incidents happened, and when people actually have contact with folks in the system. So, I think that could be improved upon. (Criminal and Family Court Personnel 10)

Also, in terms of communication between the provincial court system, the Court of Queen's Bench, and even the police, and [child welfare agency]. I would say 'cause they're all intertwined often in family law cases where there's family violence. So no, there needs to be better communication especially when there's protection orders that need to be varied. (Criminal and Family Court Personnel 07)

Ensure the Best Interests of the Child

The “best interests of the child” principle was noted as a paramount consideration when adjudicating custody and access cases involving IPV. Participants provided a number of recommendations to consider when deciding the best interests of the child, in order to ensure children’s wellbeing.

- Take the following factors into consideration when determining the best interests of the child:
 - Home environment
 - Financial considerations
 - Cultural considerations
 - Safety

- Children's decision-making ability

Well, definitely just a healthy living environment. You know, with mature and responsible people that are looking after them. Umm... financial security or financial consideration, umm I don't know. Just the environment that they would be brought up in, or they would be placed somewhere. Obviously cultural, you don't want to place them with a family with a totally different culture, I mean, they should be sticking to their, what their parents would be raising them as. (Parent 05)

Ideally, if it comes to criminal court and for whatever reason, because of safety issues, I think that the child's needs and safety should be addressed first. (Parent 08)

I don't believe that a 12-year-old has the knowledge in their brain to make the decision on who they should live with. (Parent 06)

Participants also recommended differing levels of direct involvement with children in custody and access cases involving IPV, with some participants recommending direct engagement with children, and some advocating against it.

If the kids are of a decent sound mind and age. Definitely interviews with the kids, whether it's virtually or over the phone with whatever parents they are living with at that time. (Parent 14)

They need to be included in decision making. I think a broader scope of understanding of their environment and interests and wellbeing to be able to ensure and protect them are absolutely needed as a foundation that seems to be lacking at the core. (Parent 20)

I don't think the child should be involved in the court system whatsoever. I don't think the child should know—I don't think the parents should be telling or talking bad about the other parent. They shouldn't know what's going on—that impacts them a lot. I was involved in the court system when I was young against my mom and dad, he was violent towards her then I had to like stand up and testify in court when I was super young. (Parent 15)



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Appendix A – Criminal and Family Court Personnel Interview Guide

Demographic Face Sheet

- 1) ID #: _____
- 2) Position Title: _____
- 3) How long have you been employed in this position? _____
- 4) How long have you worked in your current field? _____
- 5) If any, what other related positions have you worked? How long have you worked in each position?

Interview Questions

I'd like to ask you some questions about your office's processing of *criminal or custody/access cases (refer to one only)* when there are allegations of intimate partner violence. When I say intimate partner violence, I am referring only to the violence that happens within the context of marital or partner (including same sex) relationships (for instance, domestic violence, wife assault, spousal assault, etc.). I am not referring to child abuse, sibling abuse, or elder abuse.

You are not expected to identify any specific examples from cases that you or your staff have worked with. Likewise, you are not expected to identify any staff members/court personnel who you work with or have worked with.

- 1) Please describe your role in the court system as it relates to intimate partner violence and/or custody and access issues?
- 2) Can you speak to what you are seeing in terms of how the *criminal or family law courts (refer to one only)* are handling cases involving intimate partner violence where there are children involved?
- 3) What more is needed to strengthen staff/court personnel's response to intimate partner violence involving children?

Policy/Legislation

- 1) What policies or protocols exist to ensure children's interests and well-being are taken into consideration in criminal and family court cases?

- 2) What policies or protocols need to be developed so you can respond more effectively to criminal or custody/access cases where intimate partner violence occurs? OR In what ways do existing policies need to be further developed/changed so you can respond more effectively to families?
- 3) In recent months we have seen reforms to the *Divorce Act* so that it now explicitly addresses intimate partner violence in the context of custody and access decisions, as well as a new pilot program in the family court in Manitoba. What are your thoughts about these changes?

Suggested Prompts:

- a. *Possible impacts of these changes?*
- b. *Do you think mediation would be appropriate in cases involving intimate partner violence?*
- c. *How would the implementation of mediation be different in cases involving intimate partner violence?*

Practice

- 1) Do you believe you have the capacity to deal effectively with intimate partner violence cases involving children?
- 2) How does the criminal or family law systems (*select one or both*) ensure that children's interest and well-being are paramount or at least taken into consideration? Do you believe they are?
- 3) Are mechanisms in place to ensure that the court systems communicate with one another? In your opinion, are these mechanisms effective?
- 4) Overall, how effective do you think the two court systems are at responding to children's interests and needs?
- 5) What sorts of impacts are you seeing on children (and their families) under the current model?
- 6) Are you aware of parental alienation syndrome? Are you seeing this being used in cases involving IPV? How so?
- 7) Are you seeing people who exhibit behaviours that lead you to think they are hesitant to disclose IPV?
- 8) How frequently do you see parents not telling the whole truth and withholding information from the courts?
 - a. Without providing the names of people, can you give an example?
 - b. Over the course of the cases you've seen in the last five years, what do you think motivates people to withhold information?

Staffing/Personnel

- 1) Do court staff/court personnel (e.g., lawyers, judges, victim services) receive specialized training in intimate partner violence and children's exposure?
- 2) Do you believe the staff/court personnel are knowledgeable about intimate partner violence and children's exposure?
- 3) Do court staff/court personnel (e.g., lawyers, judges, victim services) receive specialized training on parental alienation syndrome?
 - a. Where do court staff/personnel get their information on parental alienation syndrome?
- 4) What more is needed to strengthen staff/court personnel's response to intimate partner violence involving children?

Services/Supports for Families and Children

- 1) What kinds of services/supports are available for families experiencing intimate partner violence where there are custody/access concerns?

Suggested Prompts:

- c. Children, survivors, and perpetrators*
- d. Marginalized or vulnerable populations*

- 2) What additional resources does the system need to effectively respond to cases of intimate partner violence?
- 3) Who do you communicate/collaborate with in your work to best support the interests of children?

General/Concluding

- 1) Do you see any gaps or barriers in the judicial response to intimate partner violence in cases where children are present? In your opinion, what is the most significant barrier?
- 2) In your opinion, what is the judicial system doing well in regards to intimate partner violence in cases where children are present?
- 3) What would the judicial system (including justice/court personnel) need to better respond to families experiencing intimate partner violence, including children?
- 4) Is there anything else you'd like to tell me about how the judicial system (both criminal and family courts) intervene in cases of intimate partner violence involving children?

Appendix B – Community Agency Staff Interview Guide

Demographic Face Sheet

- 1) ID #: _____
- 2) Position Title: _____
- 3) How long have you been employed in this position? _____
- 4) How long have you worked in your current field? _____
- 5) If any, what other related positions have you worked? How long have you worked in each position?

Interview Questions

I'd like to ask you questions about your opinions and experiences about how the criminal and/or family court systems respond or intervene when there are allegations of intimate partner violence involving children. When I say intimate partner violence, I am referring only to the violence that happens within the context of marital or partner (including same sex) relationships (for instance, domestic violence, wife assault, spousal assault, etc.). I am not referring to child abuse, sibling abuse, or elder abuse.

You are not expected to identify any specific examples from cases that you or your staff have worked with. Likewise, you are not expected to identify any staff members/court personnel who you work with or have worked with.

- 1) Please describe your organizational role or position as it relates to intimate partner violence and/or custody and access issues.
- 2) Can you speak to what you are seeing in terms of how the criminal or family law courts are handling cases involving intimate partner violence where there are children involved?
- 3) Do you believe the criminal or family law systems consider children's interest and well-being when they make decisions?
- 4) Is there a process through which children's voices are heard?
- 5) How effective do you think the two court systems are at responding to children's interests and needs?

- 6) What sorts of impacts are you seeing on children under the current model?
- 7) What sorts of impacts are you seeing on non-offending caregivers and perpetrators under the current model?
- 8) Do you believe the staff/court personnel are knowledgeable about intimate partner violence and children's exposure?
- 9) What more is needed to strengthen staff/court personnel's response to intimate partner violence involving children?
- 10) What kinds of services/supports are available for families experiencing intimate partner violence where there are custody/access concerns?
Suggested Prompts:
 - a. *Children, survivors, and perpetrators*
 - b. *Marginalized or vulnerable populations*
- 11) What additional resources are needed so that the court systems can effectively respond to children's needs specifically; and cases of intimate partner violence, more generally?
- 12) Do you see any gaps or barriers in the judicial response to intimate partner violence in cases where children are present? In your opinion, what is the most significant barrier?
- 13) In your opinion, what is the judicial system doing well in regards to intimate partner violence in cases where children are present?
- 14) What would the judicial system (including justice/court personnel) need to better respond to families experiencing intimate partner violence, including children?
- 15) Thinking of the new changes to the *Divorce Act* and provincial legislation, what sorts of impacts are you anticipating?
 - a. *Children, survivors, and perpetrators*
 - b. *Marginalized or vulnerable populations*
 - c. *Do you think mediation is appropriate in cases involving intimate partner violence?*
- 16) Is there anything else you'd like to tell me about how the judicial system (both criminal and family courts) intervene in cases of intimate partner violence involving children?

Appendix C – Parent Interview Guide

Demographic Face Sheet

- 1) Interview Code:
- 2) City/Town:
- 3) Age of Participant:
- 4) What gender do you identify with?
- 5) Current employment?
 - Full time
 - Part-time
 - Casual
 - Not employed
- 6) What is your highest level of education completed?
 - Did not complete high school
 - Completed high school
 - Completed post-secondary (technical)
 - Completed undergraduate (university)
 - Completed graduate (university)
- 7) What is your racial background?
- 8) What is your current level of income approximately?
- 9) Marital/relationship status with abusive partner?
- 10) What is the length of your involvement with your ex/partner?
- 11) Age and sex of children (starting with oldest):
 - _____ (Male/Female/Non-binary)
 - _____ (Male/Female/Non-binary)
 - _____ (Male/Female/Non-binary)
 - _____ (Male/Female/Non-binary)
 - _____ (Male/Female/Non-binary)

Interview Questions

- 1) Tell me about the nature of your relationship with your ex-partner.
- 2) When did you decide to separate from your ex-partner? What prompted this decision?
- 3) What was your experience like going through the criminal court system?
Suggested Prompts:
 - a. *Length of court involvement?*
 - b. *How many court dates did you have? If applicable, how many remand dates?*
 - c. *Increased risk to your physical safety?*
 - d. *Impact on emotional safety/well-being?*
 - e. *Impact on financial well-being?*
 - f. *Did you understand what was taking place? Were you kept informed?*
- 4) What was your experience like going through the family court system?
Suggested Prompts:
 - a. *Length of court involvement?*
 - b. *Increased risk to your physical safety?*
 - c. *Impact on emotional safety/well-being?*
 - d. *Impact on financial well-being?*
 - e. *Experience with court orders?*
 - f. *Did you understand what was taking place? Were you kept informed?*
- 5) In your involvement in the family court system did you bring up your experiences with intimate partner violence and your children's exposure?
 - a. *If yes, how was this received?*
 - b. *If no, what were your reasons for not discussing your experience of intimate partner violence?*
- 6) In your involvement in the family court system were any arguments made about parental alienation?
 - a. *If so, by whom?*
- 7) How many legal resources/referrals did you use during your involvement in either system?
 - a. *During this time, was there ever a situation where you applied for legal resources/referrals and were determined ineligible for services? If yes, explain.*
- 8) Do you feel like your interests and well-being were considered in either system?
- 9) Was your matter referred to Family Conciliation?
- 10) Did you attend the For the Sake of the Children program?
- 11) Did you receive support from anyone?
- 12) To your knowledge, did the two court systems communicate with one another while your case was proceeding?
- 13) Tell me how your children's interests or experiences were acknowledged/recognized in the criminal court system.
- 14) What aspects do you feel should be considered in the determination of a child's best interests?
- 15) In your involvement with the family court system, were you asked to provide information about yours and your children's experiences with intimate partner violence?

a. How was this information regarded?

- 16) Did anyone ask your children for their input regarding decisions that were being made within the court systems?
- 17) Do you believe that your children were put at risk of harm by either system?
- 18) In what other ways do you think that your children were impacted by decisions that were made by these court systems?
- 19) Do you feel like your children's interests and well-being were considered in either system?
- 20) Did your children communicate anxiety to you about spending time with an abusive parent?
a. If so, how did you handle this situation?
- 21) Has your relationship with your children been impacted as a result of involvement in the criminal and family court systems?
- 22) What recommendations/suggestions can you offer to improve the criminal justice system in cases of intimate partner violence involving custody and access decisions?
- 23) What recommendations/suggestions can you offer to improve the family court system in cases of custody/access involving intimate partner violence?
- 24) What do you think needs to happen to ensure and protect children's interests and well-being?
- 25) What would you tell other mothers/fathers (*refer to one only*) who are going through a similar experience?
- 26) Is there anything else you'd like to add that you think is important for us to know about your experiences as a parent who has experienced abuse and your experiences with the family and criminal court systems?
- 27) What do you feel worked well within in the system?

Appendix D – Young Adult Interview Guide

Demographic Face Sheet

- 1) Case ID: _____
- 2) Pseudonym: _____
- 3) City/Town: _____
- 4) Age of Participant: _____
- 5) What gender do you identify with? _____
- 6) Your age when your parents were involved in the family and criminal court systems? _____
- 7) Current employment?
 - Full time
 - Part-time
 - Casual
 - Not employed
- 8) What is your highest level of education completed?
 - Did not complete high school
 - Completed high school
 - Completed post-secondary (technical)
 - Completed undergraduate (university)
 - Completed graduate (university)
- 9) What is your racial background? _____

Interview Questions

- 1) Do you remember when your parents began the legal process to separate?
- 2) What was your experience like when your parents were going through the criminal court system?
Suggested Prompts:
 - a. *Do you remember the impact it had on you at the time?*
 - b. *Do you remember the impact it had on your parents at the time?*
 - c. *Do you remember feeling safe/unsafe?*
 - d. *Were you kept informed about what was taking place? Did you understand what was taking place?*
 - e. *Did anyone ask you for your input regarding decisions that were being made?*
- 3) What was your experience like when your parents were going through the family court system?

Suggested Prompts:

- a. *Do you remember the impact it had on you at the time?*
- b. *Do you remember the impact it had on your parents at the time?*
- c. *Do you remember feeling safe/unsafe?*
- d. *Were you kept informed? Did you understand what was taking place?*
- e. *Did anyone ask you for your input regarding decisions that were being made?*

- 4) Do you feel like your interests and well-being were considered in either system? Explain.
- 1) Did you experience anxiety when disclosing to the courts your feelings around being with an abusive parent?
- 2) Were you asked to have contact or visit with a parent that you did not want to? What was this like for you?
 - a. Did this parent ever express negative sentiments about the other (non-offending) parent during these unwanted visits/contacts?
 - b. Do you feel that the relationship with your non-abusive parent has been undermined as a result of these unwanted visits/contacts?
- 3) Did the court prevent you from seeing a parent you wanted to see? Explain.
 - a. If so, do you feel that the relationship with your (allegedly abusive) parent has been undermined as a result of not being able to see or contact him/her?
- 4) Do you believe that your safety was put at risk by either court system?
- 5) Do you believe one of your parents alienated you from the other parent? Explain.
 - a. What do you think the impact of this was?
- 6) To your knowledge, did the two court systems communicate with one another while your case was proceeding?

- 7) How has this experience impacted you over time?

Prompts:

a. *Physical Health*

b. *Emotional/Mental Health*

Prompt: Substance Abuse

c. *School*

d. *Work*

e. *Behaviour*

Prompts: Violence; Criminal activity

f. *Relationships*

- 8) Do you still experience these impacts?
- 9) Did anyone recognize any of these impacts while you were a child? Were you provided support to address these impacts?
- 10) What recommendations/suggestions can you offer to improve the criminal justice system in cases of intimate partner violence involving custody and access decisions?

Suggested Prompts:

- a. *What could have been done differently that would have helped you or made this a better experience for you?*

- 11) What recommendations/suggestions can you offer to improve the family court system in cases of custody/access involving intimate partner violence?

- 12) What do you think needs to happen to protect children's interests and well-being?
- 13) What would you tell other children who are going through a similar experience?
- 14) Is there anything else you'd like to add that you think is important for us to know about your experiences as a child whose parent has experienced abuse and your experiences with the family and criminal court systems?