

# Canadian Observatory on the Justice System's Response to Intimate Partner Violence

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## Abstract

This article discusses a national partnership of Canadian Research Centres on Violence ("the Alliance") and its approach, as the group moves toward developing a Canadian observatory, its goals and research priorities.

## Résumé

Cet article discute du partenariat entre les centres canadiens de recherches contre la violence ("l'Alliance") et de leur approche tandis que le groupe se dirige vers le développement d'un observatoire canadien, de son but et de ses priorités de recherches.

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## Introduction

In the last two decades the Canadian justice system has responded to lobbying efforts by women's organizations to take a more pro-active and interventionist role in responding to intimate partner violence. This response has involved additional funding as well as new legislation and policies on enforcement. However, while criminal law is a federal responsibility, enforcement and implementation are typically provincial (courts) or municipal (policing) responsibilities, resulting in a variety of policies and programs across the country. In addition, a number of provinces have introduced civil legislation to address intimate partner violence. While policy makers across Canada are committed to reducing the devastating impact of intimate partner violence, these diverse policies and practices must be analyzed and compared to determine best practices for the country as a whole.

During the 1990s, a number of research centres on family violence and violence against women were founded across Canada to establish a sustainable capacity to conduct research on family violence and violence against women (National Clearinghouse on Family Violence, 1999). All of the centres in the Alliance of Canadian Research Centres on Violence ("the Alliance") have been involved, along with community based organisations and government representatives, in research that examines some aspect of the justice system's response to intimate partner violence. A major research initiative, "Evaluating the Justice and Community Response to Family Violence in the Prairie Provinces," under the direction of Leslie Tutty from the University of Calgary, reveals the existence of different justice system responses to domestic violence in the three prairie provinces. It echoes and strongly confirms

what earlier studies have revealed regarding important jurisdictional variation with substantially different outcomes, especially when comparing data on the prior record of the accused in spousal abuse cases; convictions in spousal abuse cases; and trial outcomes in spousal abuse cases. It also demonstrates the need for a national study that would permit rigorous interjurisdictional analysis on the justice system's response to intimate partner violence. The necessity to develop a concerted research agenda became clearer for the members of the Alliance and others involved in research in this particular domain. Building on the centres' research experiences, the Alliance, along with community based organisations and government representatives, is developing a structure that would allow those interested in researching the justice system response to compare the responses to intimate partner violence in different jurisdictions, to look at similarities and differences, and also contribute to our understanding of what can be adapted, what works, and where the gaps are located. Such a project should provide a better understanding of what factors ensure that an initiative will be successful. Moreover, it would contribute to the formulation of a better response to violence in all the Canadian provinces and territories and to an understanding of the reasons for (and consequences of) the absence of such initiatives. As a pan-Canadian observatory, the network will focus on the justice system's response to intimate partner violence in a multisectoral-coordinated effort to eliminate intimate partner violence in Canada by enhancing the effectiveness of the systems and provide accessibility of research findings to those involved on the issue.

In the fall of 2004, the Alliance started a process of reflection on partnership and research conducted on family violence across Canada. With the help of a first grant from the Social Sciences and Humanities Research Council of Canada (SSHRC), regional consultations were held and a national meeting was called to revisit and elaborate on the future of partnership among ourselves. In the winter of 2006, a

second SSHRC grant provided the opportunity to refine partnerships with the provinces and territories on national research priorities. This article is an invitation to everyone interested in being involved in a national research partnership that looks especially at the justice system's response to intimate partner violence. The objective is to inform and to stimulate partnership research. In this article, we expose some ideas that are leading the Alliance, community based organisations and representatives from provincial/territorial governments towards the development of the Canadian observatory. We explain the approach that is promoted by the group, discuss the goals and research priorities for the observatory, and identify the next steps for the development of the observatory in the coming year. First, a brief explanation of the Alliance.

#### What Is the Alliance?

Established in 1997, the Alliance of Canadian Research Centres on Violence is composed of:

- ▶ BC Feminist Research, Education, Development & Action (FREDA), Simon Fraser University;
- ▶ Research and Education for Solutions to Violence and Abuse (RESOLVE), which is a tri-provincial research centre with offices at the University of Manitoba, University of Calgary and University of Saskatchewan;
- ▶ Centre for Research on Violence Against Women and Children (CRVAWC), University of Western Ontario;
- ▶ Centre de recherche interdisciplinaire sur la violence familiale et la violence faite aux femmes (CRI-VIFF) Université de Montréal and Université Laval; and
- ▶ Muriel McQueen Fergusson Centre for Family Violence Research (FVRC/CRVF), University of New Brunswick.

These university-affiliated centres established the Alliance to strengthen community and academic

partnerships, and to carry out research and public education to eliminate family violence and violence against women and children. Each centre is a cluster in itself and works at the interface of the community and university. It is a unique research partnership model between communities and universities promoting participatory action research. This means that the Alliance recognizes that a dialectical process occurs during the conceptualization of a research project, the operationalization of a research design and the dissemination of findings that emerge from the research process. The most significant achievement of the Alliance lies in its involvement of researchers from different milieus. The collaborative work developed by the Alliance has led academics, front-line workers and government representatives to coordinate their efforts to design the following research cluster. Within this model the emphasis is on promoting a democratic approach to research that reflects community needs and the mutual will to make a difference towards the elimination of family violence and violence against women and children.

#### What the Alliance Is Developing

The overall objective for a Canadian observatory on the justice system's response to intimate partner violence in Canada is to maximize the knowledge mobilization impact of the Alliance in communities. To members of the Alliance, the experience of networking in Canada has generated collaborative research, confirmed the importance of participatory action research, and led to a theoretical approach on family violence and violence against women and children that is inclusive. It has also opened the door to sound questions related to the limitation of exchange among stake-holders (academics and non-academics) in French and English Canada. Years of experience in Canadian research on violence issues has not necessarily facilitated the sharing of local, community-applied, research with others in the country. It is not rare to learn about a specific research endeavour in a conference or in a

journal, but it is rare to see how new knowledge that others can utilize affects practices in a certain region in the country. The Alliance is committed to engaging communities so that they can benefit from research findings. However, too often, it is difficult to disseminate research that can benefit the larger society. Each research centre has conducted research and developed initiatives on the justice system's response to intimate partner violence without necessarily involving other constituencies around the country in their achievements.

The lack of a national conduit between provinces and territories, in both official languages, on the issue of intimate partner violence is another major reason behind the development of a Canadian observatory on the justice system's response to intimate partner violence in Canada. A Canadian observatory would generate solutions to eliminate this problem by promoting involvement of new partners in research. The Alliance hopes to:

- ▶ Establish a national research network emphasizing continued bilingual dialogue and in-depth research on the justice system in all parts of the country and on the impact of its response to intimate partner violence;
- ▶ Lay the ground work for standardized national data sets on the justice system's response to intimate partner violence, with particular emphasis on civil legislation and specialized response units (for example, police, court, prosecutions); and,
- ▶ Develop regional, national and international forums for dissemination of interjurisdictional analyses and program/policy outcomes.

This is a unique and original proposal because it does not currently exist in the country or elsewhere in the world. This observatory would maximize the gathering of a critical mass of expertise from across the country and from various milieus around an issue in which Canada is certainly among the leaders in the world: the justice system's response on intimate partner

violence.

### The Developmental Stage of the Research Design

At the developmental stage of the research design leading towards the establishment of a Canadian observatory, the Alliance follows the research tradition implemented at its member research centres by involving people who work on intimate partner violence at the local level (regions) first. This collaborative process ensures that priorities from each province will be addressed in the design of the Canadian observatory. As part of the development of this research design, the Alliance held regional meetings in seven provinces with people from universities, communities and government to discuss priorities in their respective regions related to justice, community and policy responses to intimate partner violence: the provincial consultations took place in Calgary, Edmonton, Fredericton, London, Montreal, and other regions in Quebec, Regina, Vancouver, and Winnipeg.

From these regional consultations, it became clear that, while there are a number of issues and concerns across the country, there are also distinct interests and various issues that need to be addressed from provincial/territorial perspectives. The content of discussion held at regional meetings reflected in large part the specificities of provincial policies and programs on the issue of intimate partner violence. The consultations also pointed to regional particularities. For instance, in some consultations, participants were concerned about aboriginal communities and the justice system's treatment of intimate partner violence in those communities. In others, there were concerns about the need for programs and policies that are sensitive to the diversity of the population. In some consultations the unique realities faced by those living in rural areas was an important area that had to be addressed. Yet, these consultations revealed major research priorities that were similar for all the regions. Most importantly, a consistent theme at the local level is the lack of a national, comprehensive, and cohesive justice system response to

intimate partner violence and this has become the vital focus of the national research cluster design. The Alliance recognizes the need for a clear understanding of the national picture on the justice system's response to intimate partner violence in order to work more efficiently on finding solutions to eliminate violence. Moreover, the Alliance recognizes the necessity to be inclusive of regional particularities in the development of such a research cluster design.

These regional consultations culminated in a national meeting where key emerging themes and specificities were raised as national issues to be taken into account in the observatory. Among several dimensions discussed, two fundamental key elements (or building blocks) were perceived as crucial by all the members of the team: the definitional focus on intimate partner violence and an intersectional theoretical approach. These elements are guiding the mission, goals and research priorities elaborated for the establishment of the Canadian observatory on the justice system's response to intimate partner violence.

### Defining the Issue and the Approach

In the literature, different terms are used to describe violence in the family. Depending on the researcher's standpoint, the targeted actors in a study can be the abusers, the victims or the witnesses (Gill 2005). The term selected will convey a certain understanding of the issue. For instance, distinctions can be made between "conjugal violence," "domestic violence," and "family violence," "violence between intimate partners," "woman abuse" and "violence against women." Mann (2000) provides a substantial discussion on terminology available in the literature. For instance, the term "violence against women" is grounded in a feminist perspective and the term "family violence" reflects a sociological and helping professional perspective. Mann also notes that some researchers believe that the terms "violence against women" and "family violence" refer, in some ways, to different issues within the spectrum of abuse, and so demonstrate the

diversity of views and interpretations of the abuse phenomenon. For conceptual purposes and for practical reasons, our national team is refining the term "family violence" by using the postulate Tutty & Goard (2002) made about women abused by intimate partners. Recognizing that male partner violence remains relatively rare, they remind us that the abuse of women still occurs much more frequently than the opposite. The national team recognizes the diversity in labelling and defining the issue and is moving forward on the justice system's response to intimate partner violence across Canada. Including children as direct or indirect victims of spousal abuse is also recognised as important to the research. Important as the definitions and diversity issues are, it is also crucial to establish the theoretical foundations from which policies and programs in the area are to be observed and analyzed.

An integrated approach in the research design emphasizes dialogue among key actors involved in the field of violence in different provinces. An integrated approach brings together people from government, community-based organizations, businesses, and universities. The development of the observatory is guided by a participatory, action-oriented research agenda. Our area of concern pertains to social change and is oriented toward identifying solutions to intimate partner violence with regard to the use of the judicial system.

The creation of a Canadian observatory will engage people from different milieus and will be inclusive of provincial, territorial, regional and community dynamics. Key actors on the issue of intimate partner violence will come from different provinces, from different provincial jurisdictions, and from sectors that deal with different social issues in their regions. The presence of these different milieus and provinces/territories calls for an intersectionality framework. Intersectionality recognizes that a combination of systems of oppression operate together to sustain and reproduce inequality. An intersectionality approach recognizes the historical, social, and political

contexts in which individuals live (Crenshaw 1994). In turn, it recognizes that social location shapes women's experiences of violence and their access to programs and services (Ristock 2002). Such a framework allows flexibility and openness to target priorities, involving a multi-dimensional perspective that may vary among regions, provinces and territories. The intersectionality framework also recognizes the diversity of people's experience of intimate partner violence. Therefore, the approach to the justice system's response to intimate partner violence is marked by an innovative framework that is consistent with the actual work developed by the Centres. This work is conducted following an action-oriented model in the Alliance that promotes partnership across Canada. An intersectionality approach presents an opportunity to look at the particularities of different jurisdictions in regards to community, policy and justice responses to intimate partner violence. It is meant to go beyond the actual state of research conducted locally by each centre of the Alliance to a coordinated research approach by Canadian jurisdictions.

#### Specific Goals and Research Priorities Within the Observatory

The Alliance's research experience confirms the necessity of conducting research to ensure the uptake of research by stakeholders that will encourage a multi-sectoral coordinated effort to reduce and eliminate intimate partner violence and help the establishment of an effective system across Canada. It is the purpose of this observatory to look at the justice system response from the perspective of both those who enter the justice system and those who avoid it altogether. Both types of victim experiences can inform what works and what doesn't work in the provinces/territories. The Canadian observatory can make a unique contribution to communities, as there is little integrative analysis of the entire provincial/territorial jurisdictions' responses.

Analytic considerations will be given to the comparisons among provinces/territories, intersectoral coordinated intervention and women's experience to

investigate the justice system's response to intimate partner violence. The Canadian observatory on the justice system's response to intimate partner violence focuses on three major questions of study on the justice system's response to intimate partner violence: What policies and strategies are in place to resolve intimate partner violence? How does the justice system operate across Canada? What are the targeted priorities (different/similar) among provinces/territories?

#### POLICIES AND STRATEGIES TO RESOLVE INTIMATE PARTNER VIOLENCE

Policy analysis is needed to understand the disjunction between policy and its implementation. It is critical to bring initiatives from across the country together in the intersectional framework to have an understanding of the national picture of the justice system's response on intimate partner violence.

In policy development, it would be very important to know the outcomes of various dispositions in criminal court, of protection/prevention orders, of mediation, and reliability of risk assessment tools, etcetera. For instance, the Canadian observatory will focus on policy issues and changes such as the effect of mandatory reporting to provincial child welfare agencies in cases of witnessing spousal violence and how this affects victims' likelihood of seeking assistance for the abuse. The Canadian observatory will conduct a series of audits of existing policies and procedures to determine what is working and what is not. The result of these audits should be a practical blueprint (rather than an "ideal template") of what changes to existing policies are needed. Also, the Canadian observatory will conduct a review of reports in order to evaluate and monitor recommendations - those that have been implemented as well as those that have not been implemented. We need to ensure that we move from research, to action, to sustainable change. For the Canadian observatory it will be important to have data from other provinces/countries to compare our performance and to learn about new programs and policies. Knowing and exploring what worked or did not work about a

program or policy in another jurisdiction can assist in developing programming in Canadian provinces.

#### HOW THE JUSTICE SYSTEM OPERATES ACROSS CANADA

How do we make women safe in Canada? This question has driven the Alliance, community based organisations and government representatives to develop a Canadian observatory to study the effectiveness of the justice system in securing women's safety. The original objectives of criminalizing intimate partner violence were to promote the safety and security of victims, to render the perpetrator responsible for his actions, to raise confidence in the justice system and, more broadly, to recognize that intimate partner violence is a crime against society. Yet women's safety is still jeopardized in some cases. What is clear from a broad perspective is that there is a lack of information on how the system works within provinces/territories, and how information is collected in various regions (Ursel 2003).

Data collection on intimate partner violence varies in each province/territory. Although intimate partner violence is a recognized crime by the criminal justice system, the justice treatment of who and what is connected to the provincial/territorial jurisdictions, resulting in different policies. This impacts the justice response in different ways across the country. Differences between civil and criminal justice legislation complicate the actual response to the issue. As mentioned earlier, specialized courts are not established in each region and those that are in place are not using the same model. Child custody and access are also major issues in cases of partner violence. In many jurisdictions, the flow of information between family court and criminal court jurisdictions is difficult. Police may assist a woman and at the same time accompany a man to remove his belongings from the home, but may be unaware of any separation agreement or violence that has been cited as the main problem in family court. One critical issue, therefore, is how the civil and criminal justice systems can better share information in a timely manner.

From police response to judicial and attorney

response there are survivors of intimate partner violence that need support and coherent intervention to solve the situation. Looking at the justice system's response to intimate partner violence from different provinces/territories is a very complex issue requiring a clear understanding of how the systems operate. Beyond the criminal justice system the different civil statutes under provincial/territorial jurisdictions also complicate how the system operates across Canada. Research conducted (Hornick et al. 2005; Dawson & Dinovitzer 2001; Hoffart & Clarke 2004; Ursel 2003) on specialisation in provincial/territorial jurisdictions points to the diverse models in place and how differently domestic violence cases are treated in the justice system. Moreover, not all victims enter the justice system or have contact with the criminal justice system. Some women never charge their abusers (Jiwani 1998). Instead, these survivors get a divorce and custody of the children. Many do this by accessing legal aid. Abusers may go on abusing.

#### DIFFERENCES AND SIMILARITIES AMONG PROVINCES: TARGETED PRIORITIES

The demographic characteristics are very diverse across Canada. This fact partially accounts for regional variations in the justice system's response to intimate partner violence. The Canadian observatory will recognize distinct community issues across the country and distinct targeted priorities among regions. Depending on the region and province, the justice system's response to intimate partner violence has to address a diversity of specific populations and their needs. Rural populations (including farming communities), northern populations, aboriginal communities, and ethnic groups are among the Canadian observatory's targeted groups.

#### What Is the Canadian Observatory on the Justice System's Response to Intimate Partner Violence?

An observatory is a structure that is oriented toward a wide view of its surroundings. This means that it will lead and coordinate national research projects by

taking into account provincial/ territorial priorities. The mission of a Canadian observatory on the justice system's response to intimate partner violence is to work as a national research partnership to conduct research that will ensure the uptake of new knowledge by stakeholders, and encourage a multi-sectoral coordinated effort to reduce and eliminate intimate partner violence to help the establishment of an effective system across Canada.

The aims of the Canadian observatory on the justice system's response to intimate partner violence are: to establish the Canadian observatory on the justice system's response to intimate partner violence as the national research centre of excellence in the study of intersectoral and inter-jurisdictional interventions on intimate partner violence; create a conduit for continual dialogue in both official languages among academics, frontline workers, professionals, provincial/territorial/federal government representatives and interested individuals at the regional, national and international levels; acknowledge expertise in the domain; enhance the effectiveness of the system and provide accessibility of research findings to stakeholders involved on the issue; integrate a training component to the studies by involving graduate and post-doctoral students; invite experts from academia and communities to share their knowledge and practice skills; develop a coordinated intersectoral approach to intimate partner violence; promote effective responses to intimate partner violence with successful initiatives put in place in provinces; lay the ground work for the national standardized data collection on the justice system's response while being respectful of the work already done in different jurisdictions; compare policies/programs/services to intimate partner violence among provinces/territories, what works, what does not work; establish a biennial National Conference on the justice system's response and intimate partner violence; and develop a national website on policies, strategies, and other responses to intimate partner violence under provincial jurisdictions.

### Partnership: Community/University

At the heart of the observatory are the stakeholders who are non-academic partners and academics. The Canadian observatory on the justice system's response to intimate partner violence will be built upon the existing multi-sectoral partnerships of the Alliance, bringing together researchers from various disciplines who have strong research skills and expertise in the domain of family violence, intimate partner violence and violence against women. This is a work in progress that is constantly evolving. At this time, the team, with the involvement of all stakeholders, is moving forward with the creation of a national common ground for comparing jurisdictional responses to intimate partner violence. Interactions between academic and non-academic groups are necessary when researching violence issues in different regions of the country. Research becomes connected to local needs and experiences. Communities are directly able to benefit from research outcomes. In this Canadian observatory, non-academic partners play a crucial role. Along with academics, non-academic partners from community-based organizations or governmental agencies will contribute to the establishment of forthcoming research directions. The Canadian observatory will engage in building research capacity through continuous partnership development.

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### References

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Crenshaw, K. "Mapping the Margins: Intersectionality, Identity, Politics, and Violence Against Women of Color," *The Public Nature of Private Violence: The Discovery of Domestic Abuse*, M. Fineman & R. Mykitiuk, eds. New

York: Routledge, 1994.

Dawson, M., and R. Dinovitzer. "Victim Cooperation and the Prosecution of Domestic Violence in a Specialized Court," *Justice Quarterly* 18 (2001): 593-622.

Gill, C. "Violence Between Intimate Partners: Understanding Theories and Their Links to Intervention Strategies," *Intimate Partner Violence: Reflections on Experience, Theory and Policy*, M. R. Hampton & N. Gerrard, eds. Toronto: Cormorant Books, 2005.

Hoffart, I. and M. Clarke. "HomeFront Evaluation: Final Report." Written for: HomeFront Evaluation Committee. Synergy Research Group. Calgary, Alberta, 2004.

Hornick, J. et al. *The Domestic Violence Treatment Option (DVTO), Whitehorse, Yukon: Final Evaluation Report*. Ottawa, National Crime Prevention Centre, 2005.

Jiwani, Y. "Rural Women and Violence: a Study of Two Communities in British Columbia. Unedited Technical Report." Ottawa: Department of Justice, 1998 [electronic version]. Retrieved June 4, 2002 from [www.harbour.sfu.ca/freda/articles/rural00.htm](http://www.harbour.sfu.ca/freda/articles/rural00.htm)

Mann, R. *Who Owns Domestic Abuse? The Local Politics of a Social Problem*. Toronto: University of Toronto Press, 2000.

Moyer, et al. "The Evaluation of the Domestic Violence Courts: Their Functioning and Effects in the First Eighteen Months of Operations, 1998 to 1999." A report to the Ministry of the Attorney General of Ontario by Moyer and Associates, Toronto, 2000.

National Clearinghouse on Family Violence. *Democratizing Excellence: the Experience of the Research Centres on Family Violence and Violence Against Women*. Ottawa: SSHRC and Health Canada, 1999.

Ristock, J. "Responding to Lesbian Relationship Violence: an Ethical Challenge," *Reclaiming Self: Issues and Resources for Women Abused by Intimate Partners*, L. Tutty and C. Goard, eds. Halifax & Winnipeg: Fernwood & RESOLVE, 2002, pp. 98-116.

Tutty, L. Principal investigator. University of Calgary. 2001-2005. "Evaluating the Justice and Community Response to Domestic Violence in the Prairie Provinces"-funded by CURA-SSHRC.

\_\_\_\_\_ & Goard, C. "Woman Abuse in Canada: an Overview," *Reclaiming Self: Issues and Resources for Women Abused by Intimate Partners*, L. Tutty & C. Goard, eds. Halifax & Winnipeg: Fernwood & RESOLVE, 2002, pp. 10-24.

Ursel, J. "Using the Justice System," *Family Violence in Canada: A Statistical Profile*. Canadian Centre Justice Statistics, Ottawa, Ontario, June 2003.