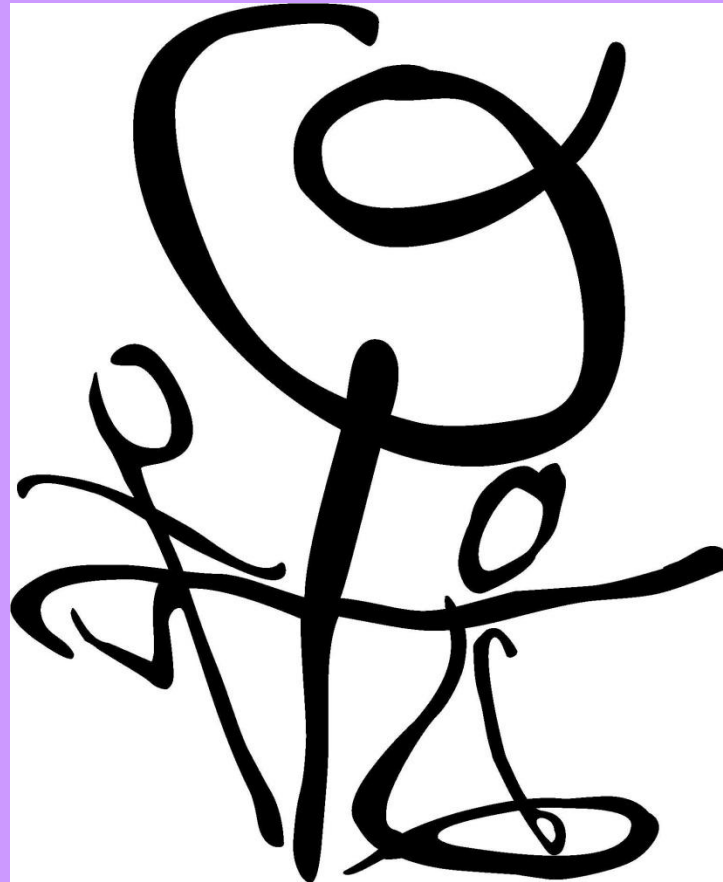


**WIJI**

**Justice Innovations for Nova Scotia  
and Women's Safety**



## Core Objectives:

- Safety: increased physical and psychological security for survivors of violence
- Community-based women's organizations providing leadership and support
- Economic independence and restitution for survivors
- Community education and activism
- Woman-centred approaches serving women in the justice system
- Eliminating myths and stereotypes that harm women in the justice system

# Explicit Approach and Philosophy:

- Women's physical and psychological safety should be explicit goals of the justice system: A social, not an individual responsibility
- Recognized in 1993 Criminal Code amendments:  
**SOCIAL CHANGE**
- **(b) society's interest in encouraging the reporting of sexual assault offences;**
- **(d) the need to remove from the fact-finding process any discriminatory belief or bias;**
- **(f) the potential prejudice to the complainant's personal dignity and right of privacy;**
- **(g) the right of the complainant and of every individual to personal security and to the full protection and benefit of the law;**

## **NS Currently Has:**

- Above average rate of SA, and it's increasing
- Almost no services for survivors
- No prevention strategy
- 2005 Advisory Council reports raises questions on justice outcomes
- Justice system is perceived as hurtful by over 52% of North American survivors (2006); NS service providers and survivors confirm
- limited resources for prosecution of SA; no formal specialization for Crowns or judiciary
- Development of SART and SANE programs under-resourced and stalled

# Making justice system changes for better results for survivors and society

- Women's organizations can't do it alone
- Justice professionals are in the best position to innovate within their own practice
- Justice professionals and survivors are empowered by being part of a larger prevention/social change context

# Innovative options

- Specialized dedicated prosecution groups
- Close community collaboration
- Specialized sex offense courts
- More survivor-centred justice

## **Specialization Within the Judiciary:**

- The decisions made by judges DO affect women's physical and psychological safety
- Specially trained judges can make more informed decisions instead of relying on assumptions, myths or stereotypes

## **Winnipeg:**

- Judges participate in specialized VAW education

### Observations:

- Treat cases with appropriate gravity
- Used time to speak to offenders about the seriousness of their offence

## **Specialization within the Prosecution:**

Many jurisdictions that have specialized courts have fixed, specialized prosecutorial staff

# **Coordinated Responses and Women's Community Collaboration:**

Canada's Ad Hoc Federal-Provincial-Territorial Working Group lists coordination of justice system response with a range of other service providers as crucial for success (FPT, 2003).

## **Coordinated Responses:**

- Most specialized courts rely on some form of coordinated response among justice institutions and community agencies
- Critical factor for success (Foster, 1999)

# **Coordination Models:**

## **Within Professional Sectors**

- Example: justice system professionals, police, prosecutors, judges.

## **Across Sectors**

- Example: community-based organizations, justice department, health and social services

# Community-inclusive Case

## Management:

- Cross-sectoral day-to-day operations are not common in Canada: Whitehorse example
- Success in other jurisdictions

Examples:

England - Domestic Violence Forum

U.S. - Family Violence Prevention Fund

Duluth - Minnesota Development Corporation

Brooklyn - Felony Domestic Violence Court

New Zealand - Hamilton Abuse Intervention Project

(Foster, 1999)

# Community-Based Women's Advocates

- Women's demonstrated priority: "This is my community."
- Success when community-based victim advocates form part of a collaborative team: other jurisdictions;  
in NS: DVIA, SANE, ad hoc work
- Identification by Crowns of value of support by women's advocates

# “Therapeutic” for women!

- Previous “therapy” DV courts such as Yukon focus on “therapy” and deals for abuser
- Now “therapeutic” is starting to be applied to the woman survivor’s experience. University of Iowa academics have developed an approach for felonies emphasizing:
  - Victim-centred model for trial process; prosecutors bear the responsibility for this
  - Empowering victims by positive pre-trial interactions with prosecutors
  - Using pre-trial motions aggressively to limit negative character evidence
  - Actively introducing evidence re accused past conduct
  - Importance of allowing victims to contextualize their testimony

# Specialized SV courts

- Newest sort of specialized court; recognizes specialized and different needs from DV
- Felony-oriented
- Monitoring-oriented
- Court oversees all justice professionals to ensure consistent messages re SV
- New York has expanded to 9 courts over last 5 years

# New York Sex Offense Court Mission Statement

- The purpose and function of Sex Offense Courts is to promote best practices in the resolution of sex offense cases and to facilitate and enhance coordination and communication among relevant stakeholders.
- Sex Offense Courts promote justice by
  - providing a comprehensive approach to case resolution,
  - increasing sex offender accountability,
  - enhancing community safety while protecting the rights of defendants.

# Key Principles

- Dedicated Court Part |
- Case Identification |
- Judicial Monitoring & Offender Accountability |
- Community Supervision
- Training |
- Stakeholder & Community Resources |
- Victim Services |
- Technical Assistance | Evaluation

# Training

Training and education for judges and non-judicial personnel in Sex Offense Courts is an integral part of the court's ability to handle complex sexual offenses in a consistent and comprehensive manner. Intensive training on issues related to sexually offending behaviors is provided to the judges and court staff in order to keep all personnel aware of the latest research and best practices in the field.

# Coordination coordination

- Many organizations come into contact with sex offenders and survivors of sex offenses, including prosecutors' offices, probation, defense bar, and survivor services agencies. Sex Offense Court judges and staff coordinate with these groups
  - to ensure a uniform approach to management of sex offense cases and
  - to promote the development and use of best practices.

# NY SV Courts preliminary evaluation

- 5 year pre-court baseline researched
- Seeking to trace accurately the links between particular procedures: arrests, specialized judiciary, pre-sentence reports, pleas, SO-specific conditions, case processing time, response to non-compliance

and

- Stakeholder satisfaction with communications, processing, safety and governance

# Interview w/ specialized NY judge: re partnerships and ending delays

- *“Through the court planning process, it was clear how important it is to get partners involved. In the old days, probation violations could take months to get a disposition. In the sex offense court, if they file a violation on a Monday, there could be a hearing as early as that week. These violations are handled in front of the other defendants and they see what happens when someone violates. The effect is 1000% better. When someone does something they shouldn't, I know about it immediately. Their rights are preserved, the victims are safe, and the court is able to address things appropriately and immediately.”*

# Efficiencies of specialization

- *“All of these cases are heard by one judge who is trained to deal with the cases and is informed about the dynamics of sex offenders. In addition, the prosecutor, victim advocate, legal service attorneys and court staff are all trained as well, so the partners are mobilized in an efficient manner that allows prosecutors, defense attorneys and defendants to appear within 2 weeks for a pre-trial conference. This case processing is a formula that allows for speedy dispositions where the attorneys are informed, the case cannot lag and no one is falling through the cracks. It used to be that delay could be used as a weapon in sex offense cases, but with this court, the defendants, the victims, and the community are all being better served.”*

# Westchester Sex Offense Court

- 4 WIJI representatives were hosted by the Centre for Court Innovation, attended courts sessions and met with different professional sectors: Oct. 20-21
- WIJI motivated to visit to find out what you can't by reading websites
- What is the atmosphere of the court?
- What are the attitudes of the professionals involved?
- What values are in fact prioritized?

# Specialized SO Probation: Westchester is U.S. leader

- Specialized training, close coordination with other professionals
- Intensive monitoring: Cautious and safety oriented
- Caseloads kept below 25
- Use of polygraph for compliance, history of sexual aggression, to end denial in treatment (not for evidence)
- Polygraph use reveals many have perpetrated 50+ offenses before 1<sup>st</sup> felony conviction
- Greatly reduced recidivism for felony probationers
- Judge deferred to probation's judgement with respect to applications to vary condition

# Law Enforcement

- Proactive recidivism prevention for known offenders; knows where they are, and patterns
- One position dedicated to relationship-building with known offenders, to monitor risk levels
- Coordinates closely with probation and parole
- Homeless shelter partners to alert police re SO presence in community
- Likes the SO court: sees as more efficient and that judge's and prosecutor expertise = better outcomes

# Specialized Prosecutors

- Assertive, knowledgeable, motivated: self-selecting specialists who understand the safety risks and cut through myths and stereotypes: “If they don’t ‘feel it’ they are not successful”...*Division Chief*
- Prestigious division
- 3 year commitment
- High use of video statements for <12 yrs. victims



## **Ideas valuable for NS:**

- Fixed, specially trained prosecutorial staff on SA cases
- Formal training
- Number of specialized prosecutors congruent with percentage of SA cases and degree of difficulty they present
- Mentorship program
- Create an atmosphere of respect and prestige
- Minimum commitment (3-5 years)

# Specialized Judges

- Willingness to go to training initially and ongoing
- Detailed statutory framework for automatic conditions that follow risk: many hearings are for determinations of offender Level (1,2,3)
- Judges not initially convinced of the need for the court become supporters after sitting several months
- Judge on our visit spoke directly to SO's on probation expectations, in strong terms
- Judge on day of visit unmoved by typical defense arguments attacking victims, describing underage victims as consenting or attempts to reframe prior convictions as "misunderstandings."

# Sex Offense Courts and the future

- **Q: What do you see as the future of the sex offense problem solving courts?**

“I think you will find a sex offender court in every county in New York and every state in this country. Sex offender courts are going to expand because the public wants to see compliance and monitoring by the criminal justice system of sex offenders that are in the community. Once the public realizes what can be done via these courts, I think the model will be established everywhere. All the partners are already there, it just needs to be organized, the partners need to be trained and the expertise needs to be applied.”

*Probation*