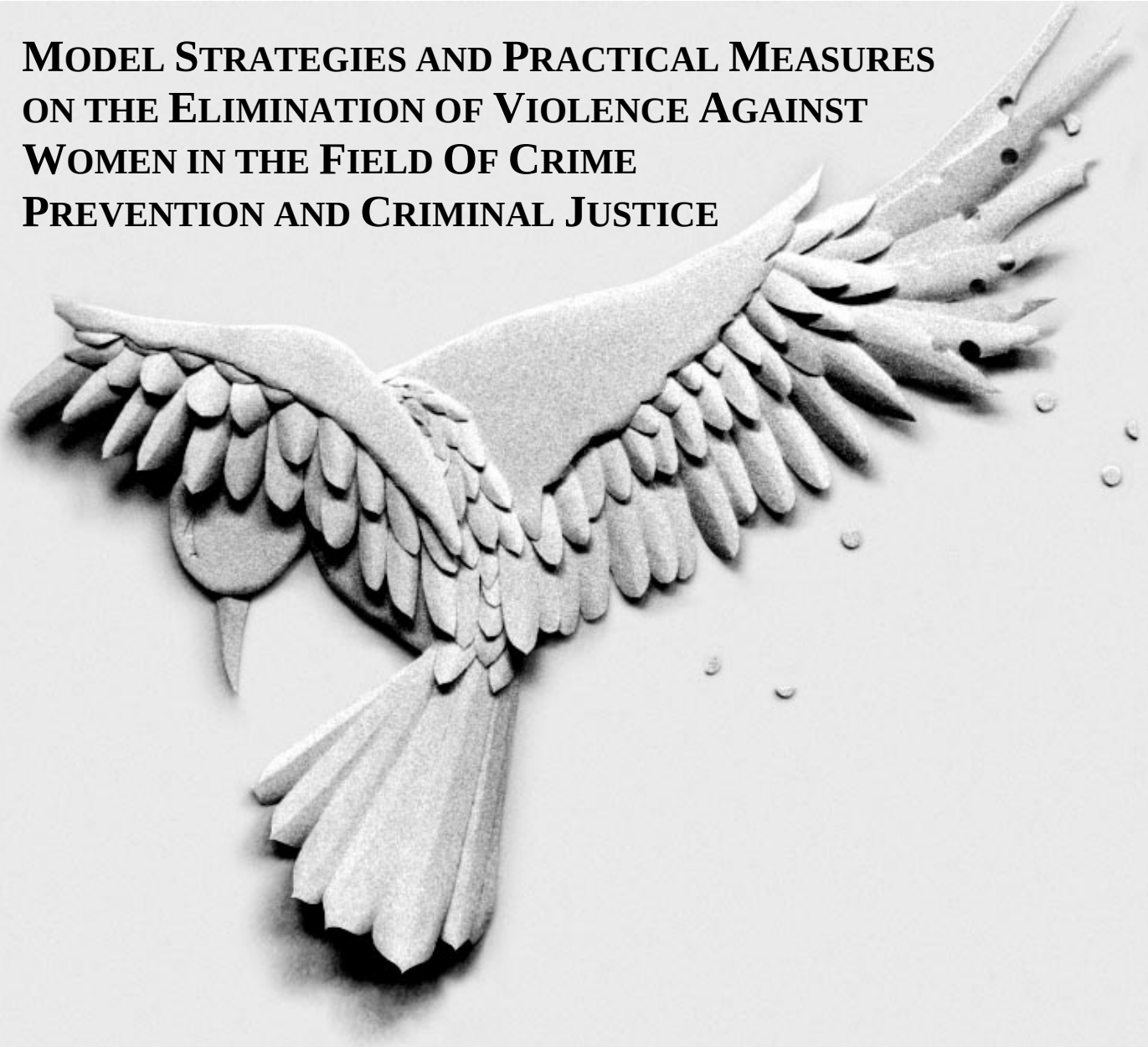
MODEL STRATEGIES AND PRACTICAL MEASURES ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE



COMPENDIUM

MARCH 1999

Model Strategies and Practical Measures On The Elimination of Violence Against Women In The Field of Crime Prevention and Criminal Justice

This document was prepared, with the financial assistance of the Government of Canada, by the *International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR)* in cooperation with *The Centre for International Crime Prevention, United Nations Office for Drug Control and Crime Prevention (CICP/ODCCP),* the *European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI),* and the *Latin American Institute for Crime Prevention and the Treatment of Offenders (ILANUD).*

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(March 1999)

INTRODUCTION

This *Compendium* of promising practices has been developed by the International Centre for Criminal Law Reform and Criminal Justice Policy, with the financial support of the Government of Canada. It was produced in collaboration with the Centre for International Crime Prevention (CICP/ODCCP), the European Institute for Crime Prevention and Control Affiliated with the United Nations (HEUNI), and the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD).

The *Compendium* is designed as a companion instrument to a *Resource Manual.* Both instruments support the implementation of the *Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice* adopted by the United Nations General Assembly in December 1997 (UNGA res. 52/86, 12), upon the recommendation of the Commission on Crime Prevention and Criminal Justice and the Economic and Social Council.

The *Compendium* is being offered as a practical means for policy makers, criminal justice officials and other professionals to learn from the experience of other jurisdictions in implementing the various elements of the proposed *Model Strategies*. For each one of the *Strategies*, the compendium offers a number of examples of promising practices, programs, policies and legislation. Information is also provided on additional published material and reference sources, as well as on the means of contacting individuals and organizations who might have further information about a particular practice or program.

The present copy of the *Compendium* is basically a printout from a database which will soon be available electronically, on a web site, for ease of access and consultation. Readers will note that some of the elements of the compendium, particularly those which were not originally available in English, are still under development.

The objective of this project is to produce an instrument which will be useful for years to come. To this end, the *Compendium* will be periodically updated to include new information and new examples of successful practices as they become available. In particular, information relating to the evaluation of existing practices will be sought and included in the *Compendium* as it becomes available. We invite your comments and suggestions.

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(A) GENERAL REVIEW OF LAWS

Section 6(a) of the Model Strategies urges Member States to periodically conduct a review of all their laws, especially criminal laws, to make them as effective as possible in preventing violence against women and to remove provisions which permit or condone violence against women.

Examples of Promising Practices Relating to General Review of Laws:

1. A NATIONAL REVIEW INITIATIVE: THE FEDERAL INTERDEPARTMENTAL FAMILY VIOLENCE INITIATIVE (CANADA)

2. REVIEW TASK FORCE COMPRISED OF GOVERNMENTAL AND NONGOVERNMENTAL REPRESENTATIVES - REPORT OF THE BRITISH COLUMBIA TASK FORCE ON FAMILY VIOLENCE (CANADA)

3. GOVERNMENTAL REVIEW BODY - REVIEW BODY OF THE MINISTER OF STATE AT THE OFFICE OF THE TANAISTE REPORT OF THE TASK FORCE ON VIOLENCE AGAINST WOMEN (IRELAND)

4. REVIEW BODY OF THE GOVERNMENT OF CANADA - CANADIAN ADVISORY COUNCIL ON THE STATUS OF WOMEN SETTING THE STAGE FOR THE NEXT CENTURY: THE FEDERAL PLAN FOR GENDER EQUALITY (CANADA)

5. REVIEW BODY FOR THE GOVERNMENT OF AUSTRALIA (PRIME MINISTER FOR THE STATUS OF WOMEN) NATIONAL PLANS OF ACTION: PARTNERSHIPS AGAINST DOMESTIC VIOLENCE (AUSTRALIA)

6. REVIEW GROUP OF THE FEDERAL MINISTRIES AND OF THE FEDERAL MINISTER FOR WOMEN'S ISSUES AND CONSUMER PROTECTION - AUSTRIA'S NATIONAL REPORT ON THE IMPLEMENTATION OF THE "PLATFORM FOR ACTION": FOURTH WORLD CONFERENCE ON WOMEN BEIJING 1995 (AUSTRIA)

7. REVIEW BODY FOR THE MINISTRY FOR EQUALITY AND THE MINISTRY OF SOCIAL AFFAIRS AND HEALTH (FINLAND)

8. REPORT BY THE GOVERNMENT OF CANADA TO THE UN COMMISSION ON HUMAN RIGHTS: SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN (CANADA)

9. INFORMATION ON FORUM 1998 ON NATIONAL POLICIES IN THE REPORT FROM THE COUNCIL OF EUROPE FIELD OF EQUALITY BETWEEN WOMEN AND MEN: "ENDING DOMESTIC VIOLENCE: ACTION AND MEASURES" (COUNCIL OF EUROPE)

10. SUMMARY REPORT: SOUTH AFRICAN DEVELOPMENT COMMUNITY (SADC) CONFERENCE ON THE PREVENTION OF VIOLENCE AGAINST WOMEN (SOUTH AFRICA)

11. REVIEW BODY FOR THE GOVERNOR'S OFFICE FOR DOMESTIC VIOLENCE PREVENTION (UNITED STATES OF AMERICA)

12. Women's Protection Teams Against Violence (Indonesia) - *TO BE ADDED*

1. A NATIONAL REVIEW INITIATIVE: THE FEDERAL INTERDEPARTMENTAL FAMILY VIOLENCE INITIATIVE (CANADA)

In 1988, the Canadian federal government established a four year (1988-92) interdepartmental Family Violence Initiative (FVI). A further initiative (1991-1995) built on and integrated the earlier governmental response to family violence. One of the objectives of the Family Violence Initiative in Canada, summarized below, is to strengthen the federal legal framework on family violence by reviewing policy and legislation on family violence issues, and monitoring current sexual abuse legislation in preparation for parliamentary review.

Synopsis

Description. The Family Violence Initiative recognises that a coordinated, interdepartmental approach involving many federal departments is necessary to systematically address family violence, given that various aspects of family violence fall within the mandates of many federal departments. Overall coordination within this structure is provided by an Interdepartmental Steering Committee on Family Violence, consisting of Assistant Deputy Ministers, or equivalents, from fifteen federal departments and agencies. This committee is chaired by the Assistant Deputy Minister, Health Programs and Services Branch, Health and Welfare Canada. The Family Violence Prevention Division provides secretariat services to the Committee.

Objectives of this initiative include: the strengthening of federal legal framework on family violence by reviewing policy and legislation on family violence issues, and monitoring current sexual abuse legislation; increase public awareness and community involvement in preventive action, and the promotion of social values that support equal rights and security for women, children and seniors; provide prevention, protection and treatment services to Aboriginal people on reserves and Inuit communities; strengthen criminal justice, health and social service intervention and treatment services, particularly for high risk populations; increase longer term housing alternatives for victims of family violence and continue to make available emergency shelters; enhance national information exchange and coordination through the National Clearinghouse on Family Violence (NCFV) and other mechanisms; and establish a solid information base on the extent of family violence.

Work carried out to strengthen the legal framework for addressing family violence issues has resulted in changes to the *Criminal Code* (Bill C-15 and Bill C-121D, e.g. stalking as a new offence; prohibiting sex offenders from frequenting places where children congregate; and changes to facilitate the giving of evidence in court by child witnesses).

Implementation details. The Family Violence Initiative is an outcome of twenty years of history of increasingly informed and complex responses by the federal government, is a multi-dimensional endeavour, reflecting the involvement of a variety of service systems and professionals in addressing family violence and recognizing the constitutional division of power in Canada. In the early 1990s there was a round of consultations with the provinces and territories on family violence to identify long term priorities, clarify respective roles and identify areas for joint or complementary action. During the consultation, the Family Violence Prevention Division coordinated the federal team, which included representatives of Justice Canada, Secretary of State Canada, the Ministry of the Solicitor General Canada, Status of Women Canada, and Indian and Northern Affairs Canada, as well as Canada Mortgage and Housing Corporation and Finance Canada in some locations. There was also consultation with the non-governmental sector.

Cost issues. The first Family Violence Initiative was funded $40 million and the second initiative $136 million by the Canadian federal government. From that $136 million, $7 million was provided for the strengthening of the federal legal framework.

Evaluation. An interdepartmental final evaluation report was prepared in April 1994. This report includes the findings of the Family Violence Initiative evaluation on relevance, success and alternatives as well as lessons learned from these activities. This report was prepared by the Interdepartmental Evaluation Working Group, chaired by Health and Welfare Canada, and included representatives from the seven funded departments/agencies under the FVI: Health and Welfare Canada, Indian and Northern Affairs Canada, the Ministry of the Solicitor General Canada, Justice Canada, Multiculturalism and Citizenship, Secretary of State, and the Canada Mortgage and Housing Corporation, as well as Status of Women Canada, which does not receive funding.

The three major sources of information for this report included: 1) the Global Issues Study which examined the rationale for and continuing relevance of the federal mandate, the success of the overall FVI, the effectiveness and efficiency of interdepartmental coordination; 2) evaluation reports from each of the seven funded departments on their programs and projects under the FVI; and 3) quantitative data from surveys were used (e.g. Violence Against Women Survey, Transition House Survey, National Clearinghouse on Family Violence - Satisfaction Survey (1992-93), Canada Health Monitor Surveys) as well as data from the Family Violence Data System (FVDS). Data collection methods used in the above components included: interviews and surveys with federal representatives, provincial/territorial government representatives, and stakeholders consisting of non-governmental organizations and groups representing Aboriginal people who received or applied for funding; case studies and community visits for funded projects, focus groups, file reviews, surveys and data bases, including a Client Information System of data on women who use transition homes.

The noted challenges in preparing this interdepartmental evaluation report including the following: there were no precedents within the federal government to carrying out interdepartmental initiatives of this size or their evaluation; the limited base line data available made quantitative assessment of the impacts of the Initiative difficult; because of the complexity of the issue it will take time before the collective and individual impacts of these projects will be felt; and attribution of success to the FVI is made difficult by the fact that the federal government is only one of many agencies involved in addressing family violence issues.

The evaluation found that while there are clear benefits to a coordinated interdepartmental effort, there are also costs in terms of time and resources. A comparative assessment of various interdepartmental initiatives would be desirable in appreciating the real cost-benefits of such interdepartmental, coordinated approaches. The evaluation findings indicate that greater coordination and improved communications are needed both (a) between the federal government and the provinces/territories, and (b) among the provinces/territories in order to improve efficiencies.

Resource person or organization to contact for further information

National Clearinghouse on Family Violence
Health Canada, Health Issues Division
Jeanne Mance Building
Tunney's Pasture, #1918C2
Ottawa, Ontario, Canada, K1A 1B4
Tel: 613-957-2938
Fax: 613-941-8930
internet homepage: http://www.hc-sc.gc.ca/nc-cn

Selected sources

1. Health and Welfare Canada Program Audit and Review Directorate (April 1994) **Report on the Interdepartmental Evaluation of the 1991-95 Family Violence Initiatives.** (Canada: Health and Welfare Canada)

2. REVIEW TASK FORCE COMPRISED OF GOVERNMENTAL AND NONGOVERNMENTAL REPRESENTATIVES - REPORT OF THE BRITISH COLUMBIA TASK FORCE ON FAMILY VIOLENCE (CANADA)

The following summary of *Is Anyone Listening?* is a comprehensive review of family and sexual violence issues in the province of British Columbia, Canada. Recommendations for change are detailed and directly reflect the vision of those who know best: front-line workers across British Columbia.

Synopsis

Description. The Task Force on Family Violence was established by the provincial Minister of Women's Programs and Government Services and Minister Responsible for Families, on March 8, 1991. The mandate of the Task Force was to identify ways to reduce violence against women, children and the elderly and to improve government policies, programs and services for victims of family and sexual violence. The Task Force refers to specific terms of reference such as: assess the effectiveness of recent public education campaigns and recommend follow-up

strategies; develop preventive strategies with respect to violence against women, children and the elderly, including both long and short term approaches to prevention; review government programs and services provided to victims of violence, focusing in particular on support, counselling and advocacy needs of victims; recommend ways for government to improve its systems, policies, and services to more effectively address the problems of violence, including ways to improve the co-ordination of existing services; develop a consultative approach with interested groups to involve them in identifying needs and developing solutions; review community models and make recommendations regarding expansion; report to the Minister with final recommendations, including some prioritisation of those recommendations.

Implementation details. Recommendations in this report are directed to the provincial government. Many of the issues highlighted here are also of relevance to municipal governments. Recommendations include a variety of initiatives such as more front-line services for victims of family and sexual violence; better training for staff; more funding for existing services; long range prevention strategies: more and better treatment for offenders; need services to be sensitive and accessible to those who are particularly discriminated against by our society, and all these initiatives need to be planned, developed, implemented, and evaluated by those who have the expertise - the front-line workers and those who are particularly discriminated against by our society.

Implementation difficulties included that the Task Force would do its work within strict limitations of time and expenditure. Though the Task Force's mandate is to look at the broad area of family and sexual violence, the Task Force has had to be somewhat selective in the content areas which it has addressed. Therefore, certain topics have been omitted or only peripherally covered in this report. These include: sexual harassment; violence in the workplace; etc.

Cost issues. The Task Force felt that the bulk of any money available to address this problem should go to direct services, not to further study of the problem. This Task Force, therefore, did its work without a lot of fanfare, and did not have the resources to travel around the province in a series of public meetings. Reliance is on information sources.

Evaluation. The Task Force felt that, for the above reason, directions for research are not a major focus of this report. Many respondents told us that the priority should be on direct services, not on research.

Resource person or organization to contact for further information
Minister of Women's Equality
Parliament Buildings
Victoria, British Columbia V8V 1X4

Selected sources
1. Ministry of Women's Equality **Is Anyone Listening? Report of the British Columbia Task Force on Family Violence** (February 1992)

3. GOVERNMENTAL REVIEW BODY - REVIEW BODY OF THE MINISTER OF STATE AT THE OFFICE OF THE TANAISTE REPORT OF THE TASK FORCE ON VIOLENCE AGAINST WOMEN (IRELAND)

The Irish government has asked the Task Force to develop a co-ordinated response and strategy on the problem of mental, physical and sexual violence against women - with a particular focus on domestic violence. In particular the Task Force should examine existing services and supports (emergency, interim and long term) for women who have been subjected to violence; examine legislation dealing with the victims and perpetrators of domestic violence; make recommendations on how legislation, services and supports could be improved and made more effective; examine the causes of violence against women (including, if necessary, initiating research); make recommendations for a comprehensive preventative strategy, and examine rehabilitation programs for perpetrators of such crimes. The following is a summary of the report.

Synopsis

Description. The main focus of the report is on domestic violence, as most attacks on women are in this category. While several public and voluntary agencies are addressing separate aspects of the problem, these different players could work more effectively if they co-ordinated their efforts and combined their separate responses into a coherent and co-ordinated approach. Against this background, the Government of the Republic of Ireland in October 1996 set up the Task Force on Violence Against Women chaired by Minister of State, Eithne Fitzgerald, T.D., and asked the Office of the Tanaiste to co-ordinate its work. This report puts forward comprehensive proposals for the development of co-ordinated and coherent services for women who have experienced, or have been threatened with, violence.

Implementation details. Responsibility for services in relation to violence against women is divided between a number of different government departments. With this in mind, a succession of studies and reports have underlined the importance of welding the separate response of the different public agencies into a coherent national strategy. In addition, proposals are also put forward for the development of: 1) intervention programs for perpetrators of violence; and 2) preventive strategies to address the root causes of the problem. In order to accomplish this, the Task Force calls for the development of a National Strategy based on two fundamental principles: a total acceptance that violence against women is wrong, it is a criminal offence and there is neither an acceptable nor tolerable level of violence; and neither society nor the judicial system should ever regard violence inflicted on a women by a man she knows as less serious than violence inflicted by a stranger.

The report has also identified a range of interventions that will enable women to deal with the consequences of violence and to make perpetrators of violence accountable for their actions. It also highlights the need for a multidisciplinary approach which will require service delivery agencies in all sectors to work together to provide information and deliver an effective service. The adoption of clear policies in all agencies, the dissemination and implementation of good practice guidelines, and the provision of effective training for personnel are essential prerequisites for the delivery of an effective service.

Cost issues. Not noted

Evaluation. Not noted

Resource person or organization to contact for further information
Office of the Tanaiste - The Government of Ireland

Selected sources
1. Office of the Tanaiste. (1997) **Report of the Task Force on Violence Against Women.** (Dublin: The Stationary Office)

4. REVIEW BODY OF THE GOVERNMENT OF CANADA - CANADIAN ADVISORY COUNCIL ON THE STATUS OF WOMEN SETTING THE STAGE FOR THE NEXT CENTURY: THE FEDERAL PLAN FOR GENDER EQUALITY (CANADA)

At the close of the 20th century, the Government of Canada is resolved to improve the status of women in Canada and around the world by adopting strategies that advance gender equality, that help women attain economic autonomy and well-being and that provide security from violence to their health and their person. It recognises that this is a critical part of its responsibility to sustain a society that values and treats its members with dignity and respect. In the face of the complex social, political, cultural and economic realities of today, this is not something that can be achieved overnight. The persistence of gender inequality underlines the need for a long-term vision. *The Federal Plan for Gender Equality*, summarized below, is the blueprint for that vision.

Synopsis

Description. Canada is proud of its progress in advancing women's equality. Combined efforts of governments - federal, provincial, territorial and municipal - of women's organisations, NGOs, professional associations, academic institutions and private sector organisations and businesses, have brought remarkable changes over a very short period. Canada has enacted extensive civil and criminal law reforms focused on issues such as violence against

women, sexual assault, sexual harassment, child abuse and gun control; has supported NGOs dealing with equality issues; and has put in place government machinery for the advancement of women to ensure that progress toward gender equality is steadily integrated into public policy. In Canada, there are higher enrolments and levels of graduation of women in post-secondary institutions, greater recognition of women's specific health care needs, rising levels of women's participation in the political process and greater representation of women in positions of economic power. However, in other areas, such as poverty, inequalities stubbornly persist. Therefore, based on the global *Platform for Action* set out by the Fourth United Nations World Conference on Women, the Government of Canada has responded by outlining these recommendations. (Page 2)

Implementation details. The Federal Plan for Gender Equality is a collaborative initiative reflecting the federal government's commitment to gender equality and represents the concerted effort of 24 departments and agencies. The plan first sets out the context and discusses the concept of equality. It identifies eight key objectives focused on improving the status of women in various dimensions. These objectives are: implement gender-based analysis throughout federal departments and agencies; improve women's economic autonomy and well-being; improve women's physical and psychological well-being; reduce violence in society, particularly violence against women and children; promote gender equality in all aspects of Canada's cultural life; incorporate women's perspective in governance; promote and support global gender equality and advance gender equality for employees of federal departments and agencies. Under each objective, issues are identified and priorities for action are outlined. These objectives are congruent with the 12 areas of action identified in the United Nations' draft *Platform for Action*, and with the United Nations' and Commonwealths' requests to institutionalise gender-based analysis in the processes of legislation, policy and program development.

Cost issues. Funding was obtained by the federal government of Canada

Evaluation. Not noted

Resource person or organization to contact for further information
The Advisory Council on the Status of Women Canada
Ottawa, Ontario, Canada

Selected Sources
1. Status of Women Canada.(1995) **Setting the Stage for the Next Century: The Federal Plan for Gender Equality.** (Canada: Ottawa)

5. REVIEW BODY FOR THE GOVERNMENT OF AUSTRALIA (PRIME MINISTER FOR THE STATUS OF WOMEN) NATIONAL PLANS OF ACTION: PARTNERSHIPS AGAINST DOMESTIC VIOLENCE (AUSTRALIA)

In September 1996 the Australian Minister Assisting the Prime Minister for the Status of Women brought together 130 national experts from the government and non government sectors to a national forum on domestic violence to consider ways in which preventing and responding to domestic violence across Australia could be improved. The forum made recommendations for the consideration of the National Domestic Violence Summit in November 1997 which all Heads of Government attended at the invitation of the Prime Minister.

Synopsis

Description. At the Summit, Heads of Government endorsed *Partnerships Against Domestic Violence*, an initiative between the Commonwealth and the States and Territories to work together towards a common goal of preventing domestic violence across Australia. Heads of Government also agreed to a national statement on domestic violence and to a set of national principles to underpin their efforts to address domestic violence more effectively. *Partnerships* is concerned with building a strategic collaboration between the Commonwealth, States and Territories to test new ways of doing things, enhance and share knowledge and develop and document good practice in preventing and responding to domestic violence. It aims to do this by conducting a wide range of projects designed to simulate new developments as well as to enhance existing programs.

Implementation details. Six priority themes have been identified as the focus for projects funded under *Partnerships* over the next few years. These were guided by the recommendations of the National Domestic Violence Forum of experts held in September 1996. The six themes centre around these key areas: working with children and young people to break the cycle of violence between generations; working with adults to break patterns of violence and working with victims and violent men; working with the community and educating against violence; protection of law; information and best practice and helping people in rural and remote communities. Co-ordination by a Commonwealth, States and Territories Taskforce enables *Partnerships* to address several key areas of importance in this plan of action. These include a National Campaign Against Violence and Crime, a Women's Safety Survey undertaken by the Australian Bureau of Statistics, implementation of training programs aimed at increasing the identification of women who have experienced violence, model Domestic Violence Laws and a wide variety of support services for victims.

Cost issues. A total of 25.3 million has been committed by the Commonwealth Government over three and a half years to June 2001 to underpin this initiative. Of this, 13.3 million will be for new Commonwealth projects which will be developed in consultation with the States and Territories, 12 million will be for national initiatives and State and Territory projects which will contribute to national knowledge and practice.

Evaluation. Not Noted

Resource person or organization to contact for further information
Prime Minister for the Status of Women: Australia

Selected sources
1. Commonwealth Government Initiative.(1996) **Partnerships Against Domestic Violence** (Australia)

6. REVIEW GROUP OF THE FEDERAL MINISTRIES AND OF THE FEDERAL MINISTER FOR WOMEN'S ISSUES AND CONSUMER PROTECTION - AUSTRIA'S NATIONAL REPORT ON THE IMPLEMENTATION OF THE "PLATFORM FOR ACTION": FOURTH WORLD CONFERENCE ON WOMEN BEIJING 1995 (AUSTRIA)

In October 1997, the meeting (The Tides of Women - Beijing Far Away) was held under the auspices of the responsible Federal Ministries and of the Federal Minister for Women's Issues and Consumer Protection. Its purpose was to review the progress made in implementing the outcome of the 1995 Beijing World Conference on Women. At this meeting, present plans were reviewed, and discussion centred around future measures and strategies. One of the key results of the meeting was the resolution on the drafting of a national plan of action. The following text was summarized from the report on the implementation of the "Platform For Action": Fourth World Conference on Women.

Austria considers the growing presence of women in public life a decisive factor in the lasting achievement of the aims laid down in the Platform of Action. At the national level, women's interests are currently voiced in all relevant political and societal discussion fora, and women join forces to achieve their full and equal participation in law and in fact. In this context, increasing attention has been paid in recent years to removing the practical obstacles on the road to the full and equal participation of women in all institutions of civil society.

Synopsis

Description. Traditionally, the Austrian legal and social system, which is largely rooted in typically male life contexts, has found no truly satisfactory remedies for the indirect discrimination against women which arises from the context of their lives. This problem is being addressed by a multitude of countervailing measures in the judicial and socio-political fields. These measures taken by Austria, include in particular: the creation of a statutory framework for the promotion of the equality of women and men in all spheres of life; the maintenance and creation of jobs for women by the purposeful development of labour-market policies which promote women; designing special support measures for women who re-enter the labour market after a career break or after periods of

unemployment; measures encouraging the diversification of occupational choices for women and the upskilling of women with the aim of increasing their numbers in leading positions in politics, business, administration, science and other important spheres of society. Other measures outlined are: guaranteeing the compatibility of career and family, especially by increased flexibility in working life, by providing sufficient child-care facilities or by stronger advocacy of the sharing of reproductive work; improvement in the statutory provisions for the social security of older women by giving them more weight to specifically female life cycles in fixing retirement pay; providing for the basic material and non-material needs of women and their children, no matter whether the women are single, married or divorced and measures to prevent violence and to help victims of violence, in particular by information and counselling and by providing facilities for women and children who are threatened by violence or are victims of violence.

Cost issues. Not noted

Evaluation. Not noted

Resource person or organization to contact for further information
Federal Minister for Women's Affairs and Consumer Protection
Vienna, Austria

Selected sources
1. Federal Minister for Women's Affairs and Consumer Protection. (1998) **Austria's National Report on the Implementation of the Platform for Action presented at the Fourth World Conference on Women Beijing 1995.** (Austria: Vienna)

7. REVIEW BODY FOR THE MINISTRY FOR EQUALITY AND THE MINISTRY OF SOCIAL AFFAIRS AND HEALTH (FINLAND)

From Beijing To Finland: The Plan of Action for the Promotion of Gender Equality of the Government of Finland

The Plan of Action for the Promotion of Gender Equality is the instrument of the Finnish Government's equality policy. It lays down objectives and the measures necessary to achieve them. It aims at promoting an increasingly gender-sensitive approach, for example a willingness to monitor the effect of various measures on men's and women's status. Finally, it is a channel through which the Government informs citizens of its principles and practices in matters of equality.

Synopsis

Description. Promoting gender equality is also the objective of the international community, as represented by the United Nations. It is essential that governments demonstrate their commitment to implement the Beijing Platform of Action. Through the Plan of Action the Government of Finland conveys to the rest of the world its concern with the promotion of equality. At the same time the Plan of Action is Finland's contribution to the international debate on the topic. A comparison of the equality strategies drafted in different countries will serve as an interesting survey of the international status of men and women and of governments' priorities.

The report wishes to draw attention in particular to one of the thirteen themes in the Plan of Action, namely the project for the prevention of violence against women. The project targets couples and families as well as children and the elderly. The project will function as a framework for developing services for the victims, training of professional counsellors, carrying out public education campaigns and helping perpetrators rid themselves of their violent behaviour. The objective is to reduce violence and to lessen related suffering and financial losses.

Implementation details. These recommendations define several key areas of concern for the country of Finland and its strategy for preventing violence against women. Realising that very little data has been compiled on the prevalence of violence in Finland, the Ministry of Social Affairs and Health has been utilised to record data on violent occurrences and to evaluate the costs and other impacts of violence on women. The Ministry of Justice has been utilised to evaluate existing legislation on sexual offences legislation, the restraining order act, and reform of criminal proceedings. They are also responsible for providing information, training, monitoring and evaluating

implementation of any new or amended policies. Other areas for evaluation include: the development of service systems to address the needs of victims of abuse; training of police to address the special needs of victims of violence; utilising the Ministry of Education to deal with violence as a theme in vocational training, and the importance of ongoing research in the area of violence against women. The implementation of public information and education campaigns to spread the word of "Zero Tolerance" against violence against women will also be a focal point.

Cost issues. Funding for this project supplied by the government of Finland

Evaluation. The Government of Finland will be presented with a proposal for revising the Plan of Action and with follow-up reports on its implementation by the end of February 1998 and 1999. Follow-up and revisions will be carried out by the Ministry of Social Affairs and Health, and NGOs will be heard in the process.

Resource person or organization to contact for further information
Ministry of Social Affairs and Health
Helsinki, Finland

Selected sources
1. booklet on **"From Beijing To Finland: The Plan of Action for the Promotion of Gender Equality of the Government of Finland."** produced by The Ministry of Social Affairs and Health (Finland: Helsinki)

8. REPORT BY THE GOVERNMENT OF CANADA TO THE UN COMMISSION ON HUMAN RIGHTS: SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN (CANADA)

This report, summarized below, is the Government of Canada's response to the request by the Special Rapporteur on Violence Against Women to report on national strategies adopted since 1994 to combat violence against women, provide information and copies of official statistics compiled, and describe training programs for the police, prosecutors and the judiciary, and other programs to prevent violence, as well as support services for victims. There have been profound changes in Canada in less than one generation with regard to the issue of violence against women. Violence is no longer perceived as an individual problem, but rather as a human rights issue, a crime, and a social and structural problem that is very much related to women's inequality in society. It is a complex problem, which is present in all segments of Canadian society, and has no racial, cultural or religious boundaries.

Synopsis

Description. Over the last twenty years, all levels of government in Canada have taken numerous actions, and developed and implemented major strategies aimed at the reduction of violence. Combating and eliminating violence against women has increasingly been a key priority of these initiatives. The voluntary sector has played a very important role in raising public awareness about violence against women and it is largely as a result of their continued efforts that the issue has become a public policy issue. Women's groups, in particular, have been instrumental in raising awareness about violence against women and other related issues, such as housing needs and the economic situation of women survivors of violence. The private sector has also played a role by supporting violence against women prevention initiatives, such as national and regional public education campaigns. Canadian initiatives, such as the 5 year Family Violence Initiative, surveys on violence against women, and many other federal plans have shown Canada's commitment to eradicating all forms of violence against women.

Implementation details. Since the Government of Canada's last report to the Special Rapporteur on Violence Against Women in 1994, several initiatives have been undertaken to address the issue of violence in our society. The ultimate goal of the initiatives is to prevent violence, provide appropriate supports to victims, hold perpetrators of violence accountable for their actions, and rehabilitate and treat offenders. Consultations with, and among federal, provincial, territorial and municipal governments, and with Aboriginal peoples, ethnocultural organisations, equality groups, and professionals in various fields were key to the development and implementation of the strategies. The exchange of knowledge and concerns played an important role in shaping Canadian strategies to address the issue of violence against women. The federal initiatives included the launching of the third Family Violence Initiative which

is to be reviewed in 5 years. The objectives of this current initiative are to promote public awareness of the risk factors of family violence and the need for public involvement in responding to the problem; to strengthen the ability of the criminal justice and housing systems to respond to the problem; and, to support data collection, research and evaluation efforts to identify effective interventions. The report also identifies many other federal initiatives presently being used to combat violence against women. Provincial and Territorial Initiatives include amended policy and legislation specifically addressing victims of domestic violence, criminal justice measures, statistical data on violence against women and support services for victims.

Cost issues. Funding source: Government of Canada

Evaluation. Not noted

Resource person or organization to contact for further information
Advisory Council on the Status of Women Canada
Ottawa, Canada

9. INFORMATION ON FORUM 1998 ON NATIONAL POLICIES IN THE REPORT FROM THE COUNCIL OF EUROPE FIELD OF EQUALITY BETWEEN WOMEN AND MEN: "ENDING DOMESTIC VIOLENCE: ACTION AND MEASURES" (COUNCIL OF EUROPE)

A sober evaluation of the security of individuals in the Member States of the European Union demonstrates that there is hardly any other criminal phenomena whose scope and severity compares with domestic violence. In no other domain are women and children less safe than in the domestic sphere. Women are especially exposed to the violence of men living in close proximity to them.

Synopsis

Description. The plenary sessions and working groups agreed that domestic violence against women has, for too long, been treated as a private, familial matter. It requires immediate and effective state intervention to not only end the violence but also to support women victims and their children and to treat male batterers. Lack of effective state action to address domestic violence against women was attributed to many factors including: women's unequal status in society; lack of respect for women's human rights; State's refusal to recognise the economic costs of domestic violence against women; and apparent societal willingness or preference to blame the victim and absolve the offender for such violence. Participants also recognised that different European states are at different stages in addressing domestic violence against women (e.g. those states that have more recently overcome communist rule are just now beginning to grapple with the problem).

Implementation details. This document first aims at highlighting the overall deplorable status quo, and secondly at describing modern standards and exemplary models of measures designed in the light of the experience gained in different countries to eliminate acts of domestic violence perpetrated by men against women. One of the focal points will be the definition of the role of the police (and judicial authorities), which means placing the main emphasis in the struggle against domestic violence on law enforcement. This approach is motivated by the conviction that the police and judicial authorities, unable to win this battle on their own, must rely on the sovereign power they represent, as without such sovereign power it is neither possible to afford women adequate protection nor impose sanctions on sanction perpetrators to the required extent or modify their behaviour through social training.

Cost issues. Not noted

Evaluation. Not noted

Resource person or organization to contact for further information
Council of Europe

10. SUMMARY REPORT: SOUTH AFRICAN DEVELOPMENT COMMUNITY (SADC) CONFERENCE ON THE PREVENTION OF VIOLENCE AGAINST WOMEN (SOUTH AFRICA)

In August 1997, in Gaborone, Botswana, the heads of State of the Southern African Development Community (SADC) decided to convene a conference on violence against women. This decision was an important acknowledgement of the priority given to this issue in SADC, and is part of an on-going commitment to address this violence throughout the region. Signing the *Declaration on Gender and Development* in September 1997, reinforced the commitment by SADC to "protect the human rights of women and children, recognising, protecting and promoting the reproductive and sexual rights of women and the girl child; and taking urgent measures to prevent and deal with the increasing levels of violence against women and children".

Synopsis

Description. The international community has increasingly recognised the need to specifically identify and address women's rights. From the *United Nations Universal Declaration of Human Rights* to the adoption of the Convention on the *Elimination of All forms of Discrimination Against Women* (CEDAW), participation by all SADC member states have included signing or acceding to the convention or are in the final stages of doing so. The framework of many of the international conference papers is centred around the declaration on the *Elimination of Violence Against Women* which was adopted by the General Assembly of the United Nations in 1993. This declaration, and other plans of action recognise that violence against women occurs in the family and in the general community, may be perpetrated by the State, and can take many forms.

Implementation details. The Planning Committee developed themes and a set of objectives for the Conference and these include: To raise awareness through the declaration of 1998 as a Year of NO Violence Against Women in SADC; To explore the possibility of a binding Regional Convention of NO Violence Against Women - similar to that adopted by the OAS and building on the provisions of CEDAW; To support the formulation of regional and national plans of action; To share best practices from the region; To review existing legislation, the legal systems and processes and to address issues such as victim empowerment, sexual harassment, violence and armed conflict, educational mechanisms, economic empowerment and victim restitution. These are just a few of the highlights of objectives set out for this conference.

Cost issues. Not noted

Evaluation. Not noted

Resource person or organization to contact for further information
Deputy Minister of Justice: South Africa

Selected sources
1. Ministry of Justice South Africa. (1998) **SADC Conference on the Prevention of Violence Against Women: Summary Report.** (South Africa: Durban)

11. REVIEW BODY FOR THE GOVERNOR'S OFFICE FOR DOMESTIC VIOLENCE PREVENTION (UNITED STATES OF AMERICA)

In 1997-98, the Governor's Office for Domestic Violence Prevention has made major strides in their effort to eradicate the domestic violence that harms many families. With the coordination of the new state office and Arizona's domestic violence and sexual assault resources, their goals are to enhance education and awareness, to promote the development of coordinated community response, and to recommend policy and legislative changes to protect victims and families.

Synopsis

Description. In the early 1990's, the need to develop a multi-disciplined task force resulted in identifying a group of representatives, who in 1993 became the integrated task force for the Governor's Commission on Violence Against

Women. The primary function of this task force was to develop strategies that worked toward the elimination of violence against women. Initial meetings were well attended and representatives voiced their concerns and recommended solutions to violence within their communities. A consensus was reached and four crucial areas were identified to confront this issue: Legislation, Education, Coordination of Activities and Public Awareness. With a strong mission statement of reducing and eventually eradicating all forms of violence against women of all ages in the State of Arizona, the commission strives to work toward these goals by: networking with other entities state-wide; sharing information and activities for education to reduce the spread of violence against women; researching community needs, issues, resources and legislation which focus on breaking the cycle of violence, including prevention and abuser intervention services; assuring that the Commission is culturally and geographically diverse, representing professional expertise in all areas of violence against women, and providing sensitivity and counsel in the evolution of public policy; and finally raising public awareness of the nature, consequences and extent of violence through the development of multifaceted campaigns which address the emotional, physical and sexual abuse perpetrated against women of all ages.

Implementation details. Each of the four committees was responsible for certain sections of the main mission statement. The Coordination Committee was responsible for publishing a bi-annual newsletter which reaches over 3,500 state-wide, while the Education Committee developed a speaker's kit on domestic violence that Commissioners used in hundreds of presentations to groups state-wide. The Issues Committee actively supported changes to the Stalking Bill, The Misdemeanour Enhancement Bill, and were instrumental in data collection on incidents of domestic violence from Law Enforcement jurisdictions. The Public Awareness Committee developed a 5 year initiative for Arizona involving all sectors of society, including religious, business, education, health, and youth communities, while supporting non-violence education week.

Cost issues. Funding source: U.S. Department of Justice

Evaluation. Not Noted

Resource person or organization to contact for further information
Office for Domestic Violence Prevention
Arizona: United States

12. WOMEN'S PROTECTION TEAMS AGAINST VIOLENCE (INDONESIA) (TO BE ADDED)

I. Criminal Law

(B) PROHIBITION OF ALL ACTS OF VIOLENCE AGAINST WOMEN

Section 6(b) of the Model Strategies urges Member States to review and make changes to their civil and criminal laws, in ways which are appropriate to their own legal system, in order to ensure that all acts of violence against women are prohibited.

(I) VIOLENCE IN THE FAMILY

Examples of Promising Practices Relating to Prohibition of All Acts of Violence Against Women:

1. COMPREHENSIVE DOMESTIC VIOLENCE LEGISLATION: PREVENTION OF FAMILY VIOLENCE ACT 133 OF 1993 AND THE PROPOSED DOMESTIC VIOLENCE BILL (SOUTH AFRICA)

2. COMPREHENSIVE DOMESTIC VIOLENCE LEGISLATION: THE VIOLENCE IN THE FAMILY (PREVENTION AND PROTECTION OF VICTIMS) LAW 1994 (CYPRUS)

3. COMPREHENSIVE LEGISLATION DEALING WITH VIOLENCE AGAINST WOMEN - VIOLENCE AGAINST WOMEN ACT OF 1998 (UNITED STATES OF AMERICA)

4. COMPREHENSIVE DOMESTIC VIOLENCE LEGISLATION: MODEL DOMESTIC VIOLENCE LEGISLATION DEVELOPED BY WOMEN, LAW & DEVELOPMENT INTERNATIONAL (UNITED STATES OF AMERICA)

5. INCLUDED RELATIONSHIPS CONTAINED IN DEFINITIONS OF DOMESTIC VIOLENCE: VIOLENCE AGAINST WOMEN ACT OF 1998 (UNITED STATES OF AMERICA)

6. DEFINITION OF MARITAL RAPE CONTAINED IN BOTH THE PREVENTION OF FAMILY VIOLENCE ACT 133 OF 1993 AND THE PROPOSED DOMESTIC VIOLENCE BILL (SOUTH AFRICA)

7. OFFENCES UNDER THE CRIMINAL LAW RELATING TO CHILD ABUSE IN FRANCE (FRANCE)

8. THE CRUELTY TO WOMEN (DETERRENT PUNISHMENT) ORDINANCE 1993 (BANGLADESH)

9. LEGISLATION PROHIBITING DOWRY: THE DOWRY PROHIBITION ACT 1961 (AMENDED IN 1984 AND 1986) (INDIA)

10. LEGISLATION IN INDIA PROHIBITING SATI: INDIAN SATI REGULATION ACT 1829 AND THE INDIAN PENAL CODE AND THE ANTI-SATI ORDINANCE(RAJASTHAN) AND THE COMMISSION OF SATI (PREVENTION) ACT OF 1987 (INDIA)

11. PROHIBITION IN LEGISLATION OF FEMALE GENITAL MUTILATION. “FRENCH PENAL CODE ART 312-3” (FRANCE)

12. INDIA PENAL CODE & DELHI COUNCIL DIRECTIVE (INDIA)

13. DEFINITION OF SEXUAL HARASSMENT: THE FEDERAL AUSTRALIAN ACT (AUSTRALIA)

14. DEFINITION OF STALKING IN THE UNITED STATES: INTERSTATE STALKING PUNISHMENT AND PREVENTION ACT OF 1996 (UNITED STATES OF AMERICA)

15. STATE ANTISTALKING LEGISLATION IN TEXAS AND MINNESOTA (UNITED STATES OF AMERICA)

16. DEFINITION OF STALKING: A MODEL STALKING STATUTE (UNITED ATATES OF AMERICA)

17. COUNCIL OF EUROPE MODEL ON RAPE AND SEXUAL ABUSE OF WOMEN (COUNCIL OF EUROPE)

18. CUSTODIAL VIOLENCE AGAINST WOMEN (INDIA) - *TO BE ADDED*.....

19. ACT NO. 54 (SUBSTITUTE TO S.B. 90 AND S.B.470) (CONFERENCE) OF THE 1ST SESSION OF THE 11TH LEGISLATURE OF THE COMMONWEALTH OF PUERTO RICO (1989) SEC. 1.3 (PUERTO RICO) - *TO BE ADDED*

20. LAW AGAINST VIOLENCE AGAINST WOMEN AND THE FAMILY, OFFICIAL REGISTRATION NO. 839, 11DECEMBER 1995 (ECUADOR) - *TO BE ADDED*

21. DOMESTIC VIOLENCE BILL, 15 DEC. 1993 (MALAYSIA) - *TO BE ADDED*

22. SWEDISH PARENTHOOD AND GUARDIANSHIP CODE (SWEDEN) - *TO BE ADDED*

23. ACT 484 CRIMINAL CODE (AMENDMENT) ACT, 1994 (GHANA) - *TO BE ADDED*

24. MEXICO'S DEFINITION (MEXICO) - *TO BE ADDED*

1. COMPREHENSIVE DOMESTIC VIOLENCE LEGISLATION: PREVENTION OF FAMILY VIOLENCE ACT 133 OF 1993 AND THE PROPOSED DOMESTIC VIOLENCE BILL (SOUTH AFRICA)

The South African Law Commission in 1996 undertook a review of the Prevention of Family Violence Act 133 of 1993. In order to facilitate a focussed debate, a discussion paper on family violence was published at the beginning of July 1996. A number of comments and submissions were made. The Commission's investigation into family violence is primarily concerned with proposals for an expansion of the protection offered by the Act. The objective of any legislation is to ensure that the substance and procedures of domestic violence legislation are well tailored to the needs of those suffering abuse in a domestic context. The result is a proposed legislation - the Domestic Violence Bill.

The Prevention of Family Violence Act 1993 provides for the granting of interdicts with regard to family violence; for an obligation to report cases of suspected ill-treatment of children; that a husband can be convicted of the rape of his wife; and for matters connected therewith.

Selected text. In the 1993 Act, section 1(2) provides "any reference in this Act to the parties to a marriage shall be construed as including a man and a woman who are or were married to each other according to any law or custom and also a man and a woman who ordinarily live or lived together as husband and wife, although not married to each other.
Section 2 provides for "a judge or magistrate in chambers may, on application in the prescribed manner by a party to a marriage (hereinafter called the applicant) or by any other person who has a material interest in the matter on behalf of the applicant, grant an interdict against the other party to the marriage (hereinafter called the respondent) enjoining the respondent:

(a) not to assault or threaten the applicant or a child living with the parties or with either of them;
(b) not to enter the matrimonial home or other place where the applicant is resident, or a specified part of such home or place or a specified area in which such home or place is situated;
(c) not to prevent the applicant or a child who ordinarily lives
in the matrimonial home from entering and remaining in the matrimonial home or a specified part of the matrimonial home; or
(d) not to commit any other act specified in the interdict.

The 1993 Act further provides an obligation to report ill-treatment of children. "Any person who examines, treats, attends to, advises, instructs or cares for any child in circumstances which ought to give rise to the reasonable suspicion that such child has been ill-treated, or suffers from any injury the probable cause of which was deliberate, shall immediately report such circumstances:

(a) to a police official; or
(b) to a commissioner of child welfare or a social worker referred to in section 1 of the Child Care Act, 1983 (Act 74 of 1983)".

2. COMPREHENSIVE DOMESTIC VIOLENCE LEGISLATION: THE VIOLENCE IN THE FAMILY (PREVENTION AND PROTECTION OF VICTIMS) LAW 1994 (CYPRUS)

In 1994, Cyprus proclaimed in force the Violence in the Family (Prevention and Protection of Victims) Law. The Law combines criminal sanctions with protection orders and property provisions more commonly found in civil law. A noted advantage of this approach is that the law is unified, saves time, money and additional stress involved in filing complaints in two systems. The concept of family is interpreted widely to include legally married adults and those cohabiting as husband and wife together with all children of the household. The following description of this Act is taken from A Comparative Legal Study of the Situation in Council of Europe Member States done by Jill Radford.

Selected text. The Family Violence Law s. 3(1) defines violence: *"any unlawful act or behaviour which results in direct actual physical, sexual or psychological injury to any member of the family and includes violence used for the purpose of sexual intercourse without the consent of the victim as well as for the purpose of restricting its liberty"*

and s. 3(3) adds *"any act or behaviour constituting violence ..... if it takes place in the presence of minor members of the family shall be considered as violence exercised against the said minor members of the family likely to cause to them psychological injury. The said act or behaviour constitutes an offence punishable under subsection (4) of this section"*.
Section 2 contains the definition of "members of the family": *"husband and wife who are legally married or who are cohabiting as husband and wife and includes the parents and also the children"*. In section 4 the law lists offences stating that when they are committed within the family, they are treated as particularly aggravated. These include: indecent assault on females; indecent assault on males; (attempted) and defilement of girls under 13 years; (attempted) and defilement of girls 13 - 16 years; defilement of idiot or imbecile; (attempted) and unnatural offence; grievous bodily harm; wounding and similar acts; and common assault.

Section 5 specifically criminalises rape in marriage. Section 6 criminalises incest when committed against a daughter, grand daughter or under the age of 18 or against a mentally retarded daughter, grand daughter or sister (no age limit).
The Law provides for inhibition orders that may be made against a person accused of an offence of violence which order him not to enter or stay in the marital home in the following circumstances:

- he has a history of repeated acts of violence against members of his family or at least 2 convictions in the last 2 years for similar offences;
- the violence caused such actual, physical, sexual or psychological injury to endanger the life, corporeal integrity or sexual or psychological health of the victim; or
- the accused refused to submit himself to treatment for self control as required.

The conditions of an inhibition order may be varied at an enquiry hearing in which all parties affected by it may make representation; the accused may apply for its revision or revocation. If the accused owns more than half the property, the court inquires into accommodation for the accused. If he owns less than half, this is delegated to a family counsellor.

The reporting of the attack to an appropriate person within 24 hours of the attack constitute corroboration of the victims evidence. Appropriate persons include: a police officer; family counsellor; welfare officer; doctor who examines the victim; member of the advisor committee; member of the Association of the Prevention of Violence in the family; and member of the close environment of the victim.
The court, upon application by police, may issue a warrant for the arrest of anyone accused of violence as defined in the Act. The accused is brought before the Court to be charged within 24 hours or to issue a remand order. Investigation and trial follow without delay. The court may before the trial, either direct the detention or release on surety of the accused or his compliance, with any terms the Court imposes for the protection of members of his family including an order prohibiting him from visiting or harassing any member of his family.

The Court may order that the evidence of the victim or witnesses may be heard in camera, or that the whole trial may be, or may give such directions necessary for the protection of victims or other persons without prejudicing the accused's rights to a fair trial. No information may be published in the press which would lead to the identification of the victim.
Family Counsellors with the following duties are appointed:

- to receive complaints of violence and carry out investigations;
- to advice, counsel, and mediate any problems in the family that are likely to lead or have led to the use of violence;
- to make arrangements for an immediate medical examination of the complainant;
- to take all necessary steps for the commencement of criminal proceedings against the perpetrator;
- to carry out investigations into the accommodation/financial affairs of the family and the perpetrator, if an inhibition order is being considered;
- any other function assigned.

Family counsellors may seek the protection of the police/any government officer in carrying out their duties. In carrying out investigations, family counsellors have the same powers as investigating police officers. The family counsellor may take advice from the multidisciplinary group when an act of violence against a person under 18 is reported.
A Multi Disciplinary Advisory Committee is established under this Act, for the prevention and combat of violence in the family with the specific remit:

- monitor the problem of violence in the family in Cyprus;

- inform and enlighten the public and professionals using the media, conferences, seminars and re-education programmes;
- promote research;
- promote services necessary to deal with all aspects of violence in the family;
- monitors the effectiveness of related services and the application and enforcement of the relevant legislation.

The committee members have knowledge and experience on matters relating to violence in the family and selected from public and private sectors. Appointees from the public sector are selected by Ministry of Health, Justice and Public Order, Social Welfare, Legal Service and Police. Private sector appointees are selected by associations/organisations involved in combating family violence. In cases where the victim is under 18, the committee will include a child psychologist, a paediatrician, a clinical psychologist, a welfare officer and any other persons possessing qualification considered necessary.

Resource person or organization to contact for further information
For more information on the situation in Cyprus a possible contact is:
The Society for the Prevention of Violence on the Family
Ms. Aliki Hadjigeorgiou, President
Tel: 02-372341 or 02-424546
or
Ms. Maro Varnavidou
Secretary to the National Machinery for the Advancement of Women
Ministry of Justice and Public Order
Tel: 02-303363

Selected sources
1. Council of Europe (Ms. Jill Radford). (1998) **Violence Against Women: Comparative Legal Study of the Situation in Council of Europe Member States.** (Council of Europe)

3. COMPREHENSIVE LEGISLATION DEALING WITH VIOLENCE AGAINST WOMEN - VIOLENCE AGAINST WOMEN ACT OF 1998 (UNITED STATES OF AMERICA)

The Violence Against Women Act is federal legislation in the United States that was proclaimed in 1994 and recently amended by the 1998 Act. It adopts a comprehensive approach to addressing domestic violence and sexual assault.

Synopsis
Description. The Violence Against Women Act makes it a federal offense to cross state lines to assault, stalk, or harass a spouse or intimate partner or to violate a protection order. Outlaws possession of firearms by those who are subject to a restraining order. Requires states to honour protective orders issued in other states and gives victims the right to mandatory restitution and the right to address the court at time of sentencing. Strengthens restitution orders and extends the "rape shield law" to protect victims from abusive inquiries regarding their private sexual conduct. Establishes a federal cause of action for gender-motivated violence. Allows for battered immigrant women and children to self-petition for U.S. Citizenship. Includes the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act of 1994, which provides states with financial incentive to adopt effective registration systems for convicted sex offenders and allows for community notification when a sex offender is released from prison. Requires the Attorney General to ensure that sex offender treatment information is provided to sex offenders before their release from prison. The Bureau of Prisons (BOP) coordinates its efforts with the efforts of two offender treatment programs information clearinghouses. Together with the U.S. Probation Office, the BOP also insures that released sex offenders follow up with community based treatment. Established the Violence Against Women Office at the U.S. Department of Justice and the National Domestic Violence Hotline.
Implementation details. On September 13, 1994, President Clinton signed the Violence Against Women Act, Pub. L. No. 103-322, 108 Stat. 1902-1995, as part of the Violent Crime Control and Law Enforcement Act of 1994. For the first time, the federal government adopted a comprehensive approach to fighting domestic violence and sexual

assault, combining tough new penalties with programs to prosecute offenders and services to help women victims of violence.

The Violence Against Women Office, established as part of the Violence Against Women Act, leads the comprehensive national effort to implement the Violence Against Women Act. Is headed by Director Bonnie Campbell, who was appointed by President Clinton. Ms. Campbell brings broader public attention to on-going programs through meetings throughout the country with law enforcement and advocacy groups, and through public appearances and media interviews. The Office is responsible for the overall coordination and focus of Department of Justice efforts to make combating violence against women a top priority. The Office holds an annual Violence Against Women Information Fair as part of the Federal Employee Domestic Violence Awareness Campaign. Produces the *Violence Against Women Act News*, a newsletter to update the public on progress made by the Violence Against Women Office and the Department of Justice on the issue of violence against women

Cost issues. The Department's S*T*O*P (Services, Training, Officers, Prosecutors) Violence Against Women Formula Grant program provides direct services to victims of domestic violence, stalking and sexual assault and assists law enforcement officers and prosecutors in developing the criminal justice system's response to violence against women. Since 1995, more than $400 million have been awarded to states and territories for law enforcement and victim service initiatives to reduce and prevent domestic violence.

States are encouraged to use S*T*O*P grants to build on their existing efforts and focus on projects that will strengthen intra- and interstate enforcement of protection orders; to develop innovative programs related to sexual assault and stalking; and to increase their emphasis on judicial evaluation and court-related projects. An additional $52 million has reached 150 state, local and tribal grantees to encourage policies of mandatory arrest of the primary aggressor in domestic violence cases. The Justice Department has also distributed over $11 million to fund more than 40 rural domestic violence and child victimization programs. Another $11 million, awarded through fiscal year 1997, has reached over 240 Native American tribal communities under the STOP Violence Against Indian Women Discretionary Grants program, enhancing services for victims and strengthening tribal law enforcement and prosecution efforts. As a condition of receiving S*T*O*P grants, states and territories must make sure that sexual assault victims do not bear any of the costs associated with a forensic exam. All 50 states and 6 territories comply with this condition.

Because, more than anything else, battered women need a safe place to go with their children, the U.S. Department of Health and Human Services has granted states, territories and Indian tribes nearly $175 million to support the system of 1,400 emergency shelters, safe homes and related services nation-wide.

The Office for Victims of Crime at the Department of Justice has provided over $92 million to help states, territories and Indian tribes compensate crime victims for their losses; provide them with emergency shelter, food and medical care; and improve through police- and court-training how the criminal justice system handles their cases. Little is known about the causes, dynamics, extent and effects of domestic violence. In order to increase knowledge and understanding on the issue of violence against women the National Institute of Justice has granted more than $40 million for research on violence against women, including $30 million to carry out over 5 years the National Research Council's proposed research agenda, Understanding Violence Against Women. The study will be carried out jointly by the USDOJ/National Institute of Justice and the DHHS Centers for Disease Control and Prevention. The Bureau of Justice Statistics has awarded states more than $10 million to improve state systems of record keeping for domestic violence crimes.

Evaluation. As of October 1997, 68 cases had been prosecuted under the criminal provisions of the Violence Against Women Act. The first conviction workplace of May 23, 1995 in West Virginia. On September 1, 1995 the defendant was sentenced to life in prison for interstate domestic violence and kidnapping.

Selected sources

1. *"The Violence Against Women Act of 1998"* (www.nclsplp.org/womanvw/wmvw_5.htm)

4. COMPREHENSIVE DOMESTIC VIOLENCE LEGISLATION: MODEL DOMESTIC VIOLENCE LEGISLATION DEVELOPED BY WOMEN, LAW & DEVELOPMENT INTERNATIONAL (UNITED STATES OF AMERICA)

The model legislation provides a drafting guide to legislatures and organizations to adopt gender-specific, comprehensive domestic violence legislation. The legislation covers the following: Section 1: Declaration of Purpose, Section 2: Definitions, Section 3: Complaints Mechanism, Section 4 Duties of Judicial Officers. Section 6: Civil Proceedings, and Section 7: Provision of Services

Extract of text: ***Model Domestic Violence Legislation***

SECTION 1: DECLARATION OF PURPOSE.

The purpose of this law is to:

1. Comply with and uphold international human rights standards, in particular those articulated in the UN Declaration on the Elimination of Violence Against Women, which defines violence against women in article 1 as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life."
2. Recognize that gender-based violence against women within the household and in the context of interpersonal relationships is domestic violence.
3. Recognize that domestic violence constitutes a serious crime against the individual and society which will not be excused or tolerated.
4. Establish legislation prohibiting violence against women within the household and interpersonal relationships, protecting such victims from violence and preventing further violence.
5. Assure victims of domestic violence the maximum protection of the law.
6. Create a wider range of flexible, immediate and responsive remedies, including penal and civil remedies to punish and prevent domestic violence while providing protections to victims of domestic violence.
7. Facilitate equal enforcement of the criminal laws by deterring and punishing perpetrators who commit violence against women in the context of the household or interpersonal relationships.
8. Establish departments, programs, services, protocols and duties including, but not limited to shelters, counselling, and job-training programs to aid victims of domestic violence.
9. Enumerate and provide by law, comprehensive support services including, but not limited to:
   a. programs to assist in the prevention and elimination of domestic violence including raising public awareness and the level of public education on the subject;
   b. emergency services for victims of abuse and their families;
   c. support programs that meet the specific needs of victims of abuse and their families;
   d. education, counselling and therapeutic programs for the abuser and the victim and other family members, such as children.
10. Expand the ability of law enforcement officers to assist victims, to enforce the law effectively in cases of domestic violence, and to prevent further incidents of abuse.
11. Train judges, prosecutors, police officials and social workers to respond effectively to issues relating to child custody, economic support and security for the victims in cases of domestic violence as well as victims with special needs such as disabilities.
12. Provide for and train counsellors to support and advise police, judges, victims of domestic violence as well as to rehabilitate perpetrators of domestic violence.
13. Develop a greater understanding at the community level of the incidence and causes of domestic violence and encourage community participation in its eradication.

SECTION 2: DEFINITIONS

States are urged to adopt broad definitions of acts of domestic violence and relationships protected flora domestic violence, that reflect international standards.

A. Relationships to be Regulated

1. The relationships which come within the purview of protection from domestic violence must include: wives, live-in partners, former wives or partners, girlfriends including girlfriends not living in the same house, female relatives (including but not restricted to sisters, daughters, mothers), female house-hold workers and female household members.

2. States should not permit religious or cultural practices to impede offering all women the full protection of this law.
3. There shall be no restrictions on women bringing suits against a spouse or any other interpersonal relationship. Evidence laws and criminal and civil procedure codes must be amended to overcome these obstacles.
4. States should offer the full protection of this law to non-national women and hold non-national men accountable to the provisions of this law.

B. Acts of Domestic Violence

All acts of gender-based physical, psychological and sexual violence against women by a person or persons in the same households or in the context of an interpersonal relationship, ranging from simple assaults to aggravated physical battery, kid-napping, threats, intimidation, coercion, stalking, verbal abuse, forcible or unlawful entry, arson, destruction of property, sexual violence, marital rape, dowry or bride-price related violence, female genital mutilation, violence related to exploitation through prostitution, violence against household workers, and attempts to commit such acts shall be termed "domestic violence."

SECTION 3: COMPLAINT MECHANISM

The law must provide for victims, witnesses to domestic violence, .family members, close associates of victims, state and private medical service providers, and domestic violence assistance centers to register complaints (domestic violence to the police or file action in court.

A. Duties of Police Officers

1. Police officers must respond to every request for assistance and protection in cases alleging domestic violence.
2. Police officers must not assign a lower priority to calls and cases involving alleged incidents of abuse by family and household members than in calls alleging similar abuse and violations by strangers.
3. Police must respond in person at the scene of the domestic violence when:
   a. the reporter indicates that violence is imminent or is in progress;
   b. the reporter indicates that an order relative to domestic violence is in effect and is likely to be breached;
   c. the reporter indicates that domestic violence has occurred previously.
4. Police must respond promptly even where the re-porter is not the victim of the violence but is a witness to the violence, friend or relative of victim, a health provider, or is a professional working at domestic violence assistance center.
5. In responding to a call or case Police must:
   a. interview the parties and witnesses, including children, in separate rooms to ensure an opportunity to speak freely;
   b. record the complaint in detail;
   c. advise the victim of the victim's rights as outlined in Section C;
   d. fill out and file a domestic violence report as provided by law in Section D;
   e. provide or arrange transport of the victim to the nearest hospital or medical facility for treatment and the collection of evidence if it is required or requested;
   f. provide or arrange transport of victim and victim's children or dependents to a safe place or shelter if it is required or requested;
   g. provide or arrange transportation to the victims' residence to collect personal belongings;
   h. provide protection to the reporter of violence;
   i. arrange for the removal of offender from the home and if that is not possible, and the victim is in continuing danger, arrest the offender.

B. Alternative Complaint Procedure

1. A victim, witness or reporter may file a complaint alleging an act(s) of domestic violence in the judicial division where: (a) the offender resides; (b) the victim resides; (c) where the violence took place; (d) where the victim is temporarily residing.
2. A victim may file a complaint alleging an act(s) of domestic violence to a state or private health facility which shall be directed to police in the judicial division where that health facility is located.
3. A relative, friend or person from whom the victim requests assistance may file a complaint alleging an act of domestic violence to the police which must be investigated accordingly.
4. Neither a complaint nor criminal/civil proceedings shall be contingent upon the victim’s receipt of a medical exam.

C. Statement of Victims Rights

The purpose of the Statement of Victim's Rights is to acquaint the victim of the legal remedies available to her during the initial stage of her complaint. It also outlines the duties of the police and judiciary in relation to the victim.

1. The police officer must communicate to the victim in a language understood by the victim indicating his/her name and badge number for identification. The law requires that police inform the victim and alleged perpetrator(s) of domestic violence that domestic violence is a crime. The officer must either arrest the suspect immediately or remove him from the household;
2. The officer must drive victim or arrange for her transport to a medical facility to attend to her injuries;
3. If the victim wants to leave her residence, the officer must drive or arrange for her secure transport to a safe place or shelter;
4. The officer must take all reasonable steps to ensure that the victim and her dependents are safe;
5. The officer must provide the victim with a written statement and communicate to her in a language she understands of the legal procedures available to her. The statement must indicate that:
   a. the law provides that the victim may seek an ex parte interim restraining court order; and/or a court order prohibiting further violence against the victim, her dependents, anyone in her house-hold or from anyone whom she requests assistance and refuge;
   b. the interim restraining order and/or court order must protect the victim's property or property held in common from destruction;
   c. the court order may require the offender to vacate the family home;
   d. in the event of the violence taking place in the night, during weekends or public holidays, the victim must be informed of emergency relief measures available to obtain a restraining order;
   e. the victim need not hire a lawyer to get an ex parte interim restraining order or court order;
   f. the offices of the clerk of the court must provide forms and non-legal assistance to persons seeking to proceed with ex parte restraining orders or court orders; the victim must be advised to apply to the court in the prescribed district/jurisdiction to obtain a court order;

   g. the police must serve the ex parte restraining order on the offender.

D. Domestic Violence Report

1. It shall be the duty of the police officer responding to a domestic violence call to complete a domestic violence report which must be a part of the record. A copy of the report should be submitted to the appropriate justice department and the applicable court.
2. The Domestic Violence Report shall be in a form prescribed by the Police Commissioner. It must include but not be limited to incorporating:
   a. the relationship of the parties;
   b. the sex of the parties;
   c. information regarding occupational and educational levels of parties;
   d. the time and date the complaint was received;
   e. the time the officer began investigation of the complaint;
   f. whether children were involved and whether the domestic violence took place in the presence of children;
   g. the type and extent of the abuse;
   h. the number and type of weapons used;
   i. the amount of time taken in handling the case and the actions taken by the officer;
   j. the effective date and terms of any previous ex parte interim order or court order issued concerning the parties;
   k. any other data necessary for a complete analysis of all circumstances leading to the alleged incident of domestic violence.
3. It is the duty of the Police Commissioner to compile and report annually to the Department of Justice/ Department of Women's Affairs/Parliament on all the data collected from the Domestic Violence Reports.
4. The annual report must include but not be limited to:
   a. the total number of reports received;
   b. the number of reports made by the victims of each sex;
   c. the number of reports investigated;
   d. the average time lapse in responding to each reports;
   e. the type of police action taken in disposing cases including the number of arrests.

SECTION 4: DUTIES OF JUDICIAL OFFICERS

A. Ex parte Temporary Restraining Order

An ex parte order may be issued on the application of a victim of domestic violence in circumstances where the victim fears for her safety, or the defendant chooses not to appear in court or cannot be summoned because he is in

hiding. An ex parte order may contain a preliminary injunction against further violence and/or the prevention of the abuser/defendant from disturbing the victim/plaintiffs use of essential property including the common home.
In addition to the victim of violence, other persons should be permitted to apply for the restraining order. It is conceivable that the victim may not be in a position to access the legal system. It is also conceivable that witnesses and persons offering assistance to the victim may also be in danger of violence.

1. Where a situation of grave danger exists to the life, health and well being of the victim and she is unlikely to be safe until the court order is issued, the victim/plaintiff, a relative, or welfare/social worker may apply to a judge or magistrate on duty to provide emergency relief such as an ex parte temporary restraining order to be issued against the abuser within twenty-four hours of violence occurring.
2. Upon an application for an ex parte temporary restraining order, the court order may issue an order to:
   a. compel the offender to vacate the family home;
   b. regulate the perpetrator's access to dependent children;
   c. restrain the offender from contacting the victim at work or other places frequented by victim;
   d. compel the offender to pay victim's medical bills for injuries inflicted by the offender;
   e. restrict the unilateral disposal of joint assets;
   f. inform the victim and offender that if the offender violates the restraining order, he may be arrested and criminal penalties brought to bear;
   g. inform the victim that notwithstanding the use of a restraining order under domestic violence legislation, she can request the prosecutor to file a criminal complaint against offender;
   h. inform the victim that notwithstanding the use of a restraining order under domestic violence legislation, and the application for criminal prosecution, she can activate the civil process and sue for divorce, separation, damages or compensation;
   i. require each party to fulfil his/her continuing duty to inform the court at each proceeding for an order of protection of any civil litigation, proceeding in juvenile court and/or criminal proceedings involving either party.
3. The emergency relief would include an ex parte temporary restraining order to remain in effect till a court order is issued not more than twenty-eight days after the ex parte temporary restraining order was issued.
4. The victim must be informed of the following:
   a. notwithstanding the use of an ex parte restraining order under domestic violence legislation, she can apply for an additional court order to protect her from further violence, a renewal of that court order and/or request the prosecutor to file a criminal complaint against defendant;
   b. an application for an ex parte restraining order in no way affects her access to other civil remedies such as the right to apply for a judicial separation, divorce, or compensation for damages;
   c. on twenty-four hours notice to plaintiff, the defendant may move for a dissolution or modification of the temporary restraining order.
   d. Non-compliance with an ex parte restraining order shall result in prosecution for contempt of court proceedings, a fine and imprisonment.

B. Protection Orders

1. Applications for a protection order may be made by the victim, a relative, a welfare worker or a person assisting the victim.
2. Application for protection orders may be made on or before the expiration of ex parte restraining orders or independently of such restraining orders.
3. Temporary or ex parte orders will cease to be of effect after a court order for protection is made.
4. Protection orders may operate to protect the victim, a relative, a welfare worker or person assisting the victim of domestic violence from further violence threats of violence.
5. Judges are required to conduct hearings within ten days of complaint and an application for a protection order.
6. Judges must uphold the provisions outlined in Victim's Statement of Rights.
7. The court order may provide any or all of the following relief:
   a. restrain the offender/defendant from causing further violence to the victim/plaintiff, her dependents, other relatives and persons who give her assistance;
   b. instruct the defendant to vacate the family home without in any way ruling on the ownership of such property;
   c. instruct the defendant to continue to pay the rent or mortgage and to pay maintenance to plaintiff and their common dependents;
   d. instruct the defendant to make available the use of an automobile and/or other essential personal effects to plaintiff;
   e. regulate the defendant's access to dependent children;
   f. restrain the defendant from contacting the plain-tiff at work or other places frequented by plaintiff;

g. upon finding that the defendant's use or possession of a weapon, prohibit the defendant from purchasing, using or possessing a firearm or such weapon as specified by the court;
h. instruct the defendant to pay plaintiffs medical bills, counselling or shelter expenses;
i. prohibit the unilateral disposition of joint assets;
j. inform the plaintiff and defendant that if the defendant violates the protection order, he may be arrested with or without a warrant and criminal penalties brought to bear;
k. inform the plaintiff that notwithstanding the use of a protection order under domestic violence legislation, she can request the prosecutor to file a criminal complaint against defendant;
1. inform the plaintiff that notwithstanding use of a protection order under domestic violence legislation, she can activate the civil process and sue for divorce, separation damages or compensation; m. conduct hearings in camera to protect the privacy of the parties.

8. The burden of proof in these proceedings is on the accused to demonstrate that such domestic violence did not take place.
9. Judges should order the dispatch of copies of all protection/restraining orders issued to the police zones where the plaintiff and those protected by the order reside, within twenty-four hours of issuing order.
10. Compliance with protection orders must be monitored by the police and the courts. Violation of a protection order is a crime. Non-compliance shall result in a fine, contempt of court proceedings and imprisonment.
11. Where the plaintiff files an affidavit that she does not have the funds to pay the costs of filing for an ex parte restraining order or a protection order, the orders shall be filed without the payment of fees.
12. Malafide and unjustified claims for a protection order may move the court to order plaintiff to pay costs and damages to the defendant.

SECTION 5: CRIMINAL PROCEEDINGS

Criminal proceedings may be initiated concurrently with an application fir an interim protection order or protection order under domestic violence legislation.

1. The prosecuting, a deferred sentence and counselling may be imposed along with attorney or Attorney-General must develop, adopt and put into effect written procedures for officials prosecuting crimes of domestic violence.
2. When a court dismisses criminal charges in a crime involving domestic violence, the specific reasons for dismissal must be recorded in the court file.
3. In criminal actions for domestic violence, the prosecuting attorney shall indicate in the information sheet that the charge for the alleged act is domestic violence.
4. The victim's testimony shall be sufficient for prosecution. No move to dismiss a complaint shall be made solely on the grounds of uncorroborated evidence.
5. Upon conviction for a domestic violence offense, the judgement must so indicate the results of the case.
6. During the trial phase, the defendant accused of domestic violence shall have no unsupervised contact with the plaintiff.
7. The issue of a restraining order or protection order may be introduced as a material fact in any criminal proceedings.
8. Depending on the nature of the offense, and where a defendant is charged for the first time with a domestic violence offense, and pleads guilty a protection order provided that the consent of the victim is secured.
9. Upon conviction of a crime of domestic violence, the court may order a term of incarceration and counselling.
10. Enhanced penalties are recommended for cases involving repeat offenses, aggravated assault and the use of weapons in cases of domestic violence.
11. Counselling must not be recommended in lieu of a sentence in cases of aggravated assault.
12. Clear sentencing guidelines must be established.

SECTION 6: CIVIL PROCEEDINGS

1. Protection orders may be issued while civil proceedings for divorce, judicial separation or compensation are pending.
2. In these circumstances protection orders may be is-sued in addition to and not in lieu of civil proceedings.
3. Protection orders and restraining orders may be is-sued independently, unaccompanied by an application for divorce or judicial separation.
4. The issue of a restraining order or protection order may be introduced as a material fact in subsequent civil proceedings.

SECTION 7: PROVISION OF SERVICES

A. Emergency Services

1. State must provide emergency services which must include:

a. seventy-two hour crisis intervention services;
b. immediate transportation from victim's home to medical center, shelter or safe haven;
c. immediate medical attention;
d. emergency legal counselling and referrals;
e. crisis counselling to provide support and assurance of safety;
f. confidential handling of all contacts with victims of domestic violence and their families.

B. Non-emergency services

1. State must provide non-emergency services which must include:
   a. delivery of services to assist in the long-term rehabilitation of victims of domestic violence through counselling, job-training, and child-care support;
   b. delivery of services to assist in the long-term rehabilitation of abusers through counselling;
   c. programs for domestic violence which are administered independent of welfare assistance programs;
   d. delivery of services in cooperation and coordination with public and private, state and local services and programs.

Training of Police Officers

1. The Police Department must establish and maintain an education and training program for police officers to acquaint them with:
   a. the nature, extent, causes and consequences of domestic violence;
   b. the legal rights and remedies available to victims of domestic violence;
   c. the services and facilities available to victims and abusers;
   d. the legal duties of police officers to make arrests and to offer protection and assistance;
   e. techniques for handling incidents of domestic violence that minimize likelihood of injury to the officer and promote the safety of the victim and her dependents.
2. Every police cadet should be trained to respond to domestic violence cases.
3. Special units should also be established with more intensive and specialized training to handle more complex cases.
4. Educators, psychologists and victims should participate in seminar programs to sensitize police.

Training of Judicial Officers

1. Provisions must be made to conduct on-going training programs for judicial officers on the handling of domestic violence cases. Training must include guidelines on:
   a. the nature, extent, causes and consequences of domestic violence;
   b. the issue of ex parte restraining orders;
   c. the issue of protection orders;
   d. guidance to be given to victims on available legal remedies;
   e. sentencing guidelines.
2. Training must include an initial course involving a prescribed number of hours and an annual review involving a prescribed number hours.
3. Special family courts should also be established with intensive and specialized training to handle domestic violence cases.

Training of Counsellors

1. The State must provide trained counsellors to support police, judges, victims of domestic violence and perpetrators of violence.
2. The Law must mandate counselling programs for perpetrators as a supplement to and not as an alter-native to the criminal justice system.
3. Counselling programs must be designed to:
   a. help the perpetrator take responsibility for his violence and make a commitment not to inflict further violence;
   b. educate the perpetrator on the illegality of violence.
4. Funding for counselling and perpetrator program should not be taken from resources assigned to victims of violence.
5. The law should provide but not mandate counselling for victim of violence. Counselling for victims of violence must be:
   a. Provided as a free service;

b. Empowering to the victim and assist her in making short-term and long-term strategies to protect her from further violence and to restore the normalcy of her life.

Resource person or organization to contact for further information
Margaret A. Schuler
Executive Director
WLD International
1350 Connecticut Avenue N.W.
Suite 407
Washington, D.C. 20036 USA

Selected sources
1. Women, Law & Development. (1996) **International State Responses to Domestic Violence: Current Status and Needed Improvements.** (USA)

5. INCLUDED RELATIONSHIPS CONTAINED IN DEFINITIONS OF DOMESTIC VIOLENCE: VIOLENCE AGAINST WOMEN ACT OF 1998 (UNITED STATES OF AMERICA)

The Violence Against Women Act is federal legislation in the United States that was proclaimed in 1994 and recently amended by the 1998 Act. It adopts a comprehensive approach to addressing domestic violence and sexual assault.

Synopsis

Text. The term "domestic violence" includes acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Resource person or organization to contact for further information
U.S. Department of Justice
Office of Justice Programs
Violence Against Women Grants Office
Washington, D.C. 20531, USA

Selected sources
1. *"The Violence Against Women Act of 1998"* (www.nclsplp.org/womanvw/wmvw_5.htm)

6. DEFINITION OF MARITAL RAPE CONTAINED IN BOTH THE PREVENTION OF FAMILY VIOLENCE ACT 133 OF 1993 AND THE PROPOSE DOMESTIC VIOLENCE BILL (SOUTH AFRICA)

The South African Law Commission in 1996 undertook a review of the Prevention of Family Violence Act 133 of 1993. In order to facilitate a focussed debate, a discussion paper on family violence was published at the beginning of July 1996. A number of comments and submissions were made. The Commission's investigation into family violence is primarily concerned with proposals for an expansion of the protection offered by the Act. The objective of any legislation is to ensure that the substance and procedures of domestic violence legislation are well tailored to the needs of those suffering abuse in a domestic context. The result is a proposed legislation - the Domestic Violence Bill.

Text. Section 5 of the Prevention of Family Violence Act, 1993 reads as follows: *"Notwithstanding anything to the contrary contained in any law or in the common law, a husband may be convicted of the rape of his wife."*
"Husband" and "wife" should be interpreted with reference to section 1(2) of the Act which states: *"any reference in this Act to the parties to a marriage shall be construed as including a man and a woman who are or were married to*

each other according to any law or custom and also a man and a woman who ordinarily live or lived together as husband and wife, although not married to each other".

Evaluation. The South African Law Commission Report of 1997 notes "that marital rape is an issue of importance in several jurisdictions. An exemption from prosecution for rape enjoyed by a husband in respect of his wife is widely seen as discriminatory against (married) women".

Research (Fredericks & Davids) affirms that marital rape has been directly linked to family violence, since it often occurs in circumstances where women are being physically abused. The exclusion of wife rape from the definition of family violence, as has been the case prior to the Act, ignored one of the most serious violations of a woman's bodily integrity. However, according to the authors, section 5 of the Act is clearly a legislative afterthought as the procedure laid down in the Act is inappropriate in the case of marital rape. The provision belongs in the Criminal Procedure Act 51 of 1977 since the proper forum for such a crime is the ordinary criminal courts.

Another commentator (Fedler) laments that no real changes which would encourage women to lay charges of marital rape have been made by the mere abolition of the common law marital rape exemption by the Act. The private locus of domestic violence means that proof of sexual assault or rape by a partner is very difficult to obtain. Given the fact that our criminal law has been criticised for its treatment of rape survivors who have been raped by strangers, women who have been raped by their husbands are in an invidious position. She claims that consent will always be an issue and that one can only assume that the cautionary rule remains intact, as do the provisions of section 227(2) of the Criminal Procedure Act 51 of 1977.

Another commentator (Sinclair) maintains that two concerns about marital rape remain, namely sentencing and the definition of rape itself. On sentencing, the abolition of the marital rape exemption could be rendered virtually nugatory if the judiciary fails to respond appropriately to the legislative acknowledgement of the seriousness of this offence. On the definition, she states that there are feminists who contend that the focus should be shifted away from the issue of lack of consent on the part of the victim to the coercion employed by the assailant. Other points of criticism against the traditional definition of rape are that the definition:

(a) is too narrow because it relates only to one form of sexual intercourse;

(b) demonstrates a male bias in that it constructs rape as a sexual act while the available evidence suggests that rape victims do not view rape as a sexual act but as a form of violence; and

(c) reflects the ideology of male proprietary interests in female sexuality.

The South African Law Commission takes cognisance of the concerns about marital rape, as expressed above. It is to be noted, however, that these points of criticism apply not only to marital rape, but also to rape in general. It is clearly incongruous to recommend changes to the legal position in respect of marital rape without reviewing the law of rape. The Commission's terms of reference for the present investigation do not include a review of the law of rape.

The Commission recommends that the proposed legislation incorporate section 5 of the Act (Rape of wife by her husband) in its present form until such time as the law of rape is reviewed.

7. OFFENCES UNDER THE CRIMINAL LAW RELATING TO CHILD ABUSE IN FRANCE (FRANCE)

In France, the criminal code deals with sexual assault of minors, sex tourism, and incest.

Synopsis

Description. In France, the sexual assault of minors under 15 years by an adult without violence, coercion, threat or sudden attack is punishable by two years imprisonment and a fine of 200,000 French francs. As of February 1, 1994 this offence, when accompanied by remuneration, is punishable in France even when it has been committed abroad and even if it is not necessarily an offence in the country concerned and the victim has not lodged a complaint (prevention of sex tourism).

Incest is criminalised in French Law. Current provisions punish more severely sexual aggression committed by a "legitimate, natural or adoptive ascendant against a minor or adult". The criminal code makes being an ascendant an aggravating circumstance in sexual aggression, rape or indecent assault involving violence or sudden attack of a person over years of age.

In the reformed Criminal Code of 1992, implemented in 1994, the fact of having committed an act of sexual aggression remains an aggravating circumstance when it is committed by a legitimate, natural or adoptive ascendant" whether it takes the form of sexual aggression other than rape, rape or sexual assault of a minor under 15, without coercion, threat or sudden attack, or of a minor over 15.

A Bill is to be submitted to Parliament shortly that provides for social and medical treatment for sex offenders, in particular for those who have committed sexual offences again minors. The Bill also provides for free treatment for minors under 15 who have been victims of sexual assault.

8. THE CRUELTY TO WOMEN (DETERRENT PUNISHMENT) ORDINANCE 1993 (BANGLADESH)

In Bangladesh, *The Cruelty to Women (Deterrent Punishment) Ordinance 1983,* the penalty areas are as follows:

1. for kidnapping or abducting women for unlawful or immoral purposes, transportation for life or rigorous imprisonment extending up to 14 years;
2. for trafficking in women and, also as above;
3. for causing dowry death, death or transportation for life or rigorous imprisonment extending up to 14 years;
4. for causing death while committing rape, death or transportation for life;
5. for attempts to cause death or causing grievous death while committing rape, transportation for life or rigorous imprisonment extending up to 14 years;
6. for abetment to above offences, same as for the offence itself.

9. LEGISLATION PROHIBITING DOWRY: THE DOWRY PROHIBITION ACT 1961 (AMENDED IN 1984 AND 1986) (INDIA)

Dowry violence occurs when husbands and their families subject women to physical and mental abuse if women's payment in lieu of marriage (dowry) is considered to be insufficient. India and other countries such as Bangladesh, prohibit the payment of dowry.

Synopsis

Text. The *Indian Dowry Prohibition Act I961 (amended* in 1984 and 1986) prohibits "any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to the other at or before or at any time after the marriage in connection with the marriage". The giver of dowry can be punished with 5 years imprisonment and a fine of Rs. 15,000. Those demanding dowry are punishable by imprisonment from 6 months to 2 years with a fine of Rs. 10,00030. It seems ironic that tile giver of the dowry who is 'forced' to give the dowry faces a greater punishment whereas the perpetrator of the crime doesn't.

The *Indian Marriage and Divorce Act* was amended in 1984 stating that gifts of excessive value given at the time of marriage, are considered to be unlawful dowry. In addition, complainants are allowed to have third parties such as their parents or welfare and women's organisations to file a complaint and initiate legal action.

The Indian *Penal Code* was also amended to include: the specific offence of dowry murder; and that cruelty by the husband or relatives of the husband which causes her grave injury or drives her to commit suicide or harassment with the idea of coercing her or her relatives to meet any unlawful demand of property or valuable security, shall be punishable with imprisonment for a term which may be extended to three years

The Act also provides for compulsory investigation by an Executive magistrate in all cases where a woman has within seven years of marriage, committed suicide or died in circumstances raising a reasonable suspicion that some other persons had committed an offence. If it is shown that her husband or any relative of her husband bad subjected to her cruelty, the court may presume that her husband or a relative of her husband’s abetted such a suicide.

Evaluation. This act of dowry has persisted unabated and statutory prohibitions which have existed in the shape of the Dowry Prohibition Act, 1961 (amended in Sept, 1984) have been practically of no avail in checkmating this menace. No scientific study of dowry deaths has been conducted on an all India basis, but according to information made available to Parliament recently the number of dowry deaths has steadily increased in the past three years. For the year 1987 alone 1786 deaths related to dowry have been reported. The figures for 1985 and 1986 are equally alarming; 999 deaths in 1985 and 1319 in 1986.

Women’s organisations all over the country have been agitating for changes in the law on dowry to plug the loopholes in the 1961 Act. Parliament has responded with an amendment in 1984 to the parent Act remove the deficiencies noticed in the working of the 1961 Act. Section 2 of this Act has been amended whereby the statutory definition of dowry has been enlarged to attract all property or other valuable security given or agreed to be given up on demand "in connection with marriage" and not merely as "consideration for marriage". In most of the reported cases on dowry deaths it is observed that the husband and the parents in-law have tortured the young bride on account of the inability of her parents or relatives to finance the overseas trip of the husband or to give costly articles

including vehicles on the occasion of child birth and similar other events. Now, if the notion of dowry is restricted only to property given as consideration for marriage, some of these post matrimonial demands may fall outside the definitional ambit and escape penal censure. To preclude this from happening the definition has now been enlarged to encompass all demands made on the bride and her family, even after marriage, for property or valuable security which demands are wholly incompatible with the concept of marriage as a union for life entered into by the parties purely out of mutual love and affection. By a flexible interpretation, courts should now be in a position to extend the thrust of the definition realistically enough to curb the growing evil of dowry in all its forms and manifestations

The penalty provisions of the Act have been amended to make the punishment for dowry more stringent. Section 3 has been amended to enhance the punishment for dowry which shall not be less than 6 months but which may extend up to 2 years and with fine of Rs. 10,000 or the value of dowry whichever is more. Penalty for demanding dowry is likewise enhanced (Sec. 4 of the Act) and it is now provided that if a person demands dowry directly or indirectly he shall be punishable with imprisonment for a term ranging from six months to 2 years and with fine which may extend to up to 10,000 rupees. After the amendment, the offence has been made cognisable (police can arrest without warrant or order of Magistrate) and it is also non-compoundable, though bailable.

A suggestion has been made in connection with the compoundable nature of the offence that with a view to effecting a healthy reconciliation between the parties, the court needs to be invested with a discretionary power to ask for an undertaking from the husband that he will not proceed with his demand for dowry and that he will be faithfully to his wife and to the obligations of the marital tie. Upon such an under-taking the Court may suspend the judicial proceedings with permission to the wife to apply for restarting the proceedings should the husband breach his undertaking. There is great merit in this suggestion which needs to be implemented by appropriate amendment to the Criminal Procedure Code and Anti-Dowry Act.

A noteworthy feature of a new amendment to the Indian Penal Code in connection with the offence of dowry is the incorporation of a new Chapter XXXA in the IPC entitled ″of Cruelty by Husband or Relatives of Husband ". This chapter contains but one section (Sec. 498A), which reflects the anxiety of the legislature to deal with torture and cruelty of married woman with the utmost seriousness and the severity in statutory response appropriate to the gravity of the evil. Under the new Section 498A, the husband or his relative guilty of cruelty towards the wife is liable to suffer jail, term of which may extend to three years. The explanatory clause to the section defines cruelty as below:

498A Explanation:--For the purpose of this Section, Cruelty means--

a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; Or
b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

This section was inserted in the Code by Criminal Law Amendment Act-1983--Specifically to combat the problem of dowry. Simultaneously a new section lI3A was added to the Indian Evidence Act giving the discretion to the Court to draw the presumption ("may presume") in the event of the wife committing suicide within seven years of her marriage, following the cruelty to which she had been subjected by the husband or his relative, that the husband or the relative had abetted the suicide. Needless to say that this provision will go a long way in helping law enforcement agencies and the courts to ensure that the guilty husband and his kin do not escape responsibility on technical legal grounds.

Be it as it may, the phenomenon of dowry is so deep rooted au evil that its prevention and punishment therefor are daunting tasks which cannot be accomplished by officials of the State without active cooperation of an alert public intent on stamping out this evil from our social psyche. Social defence action groups and public spirited men must come forward to volunteer the needed help and act in concert with the officials to create a healthy climate of public opinion which is our best guarantee to stop this menace. Woman, more than men. have a heightened social responsibility to shoulder for, behind every dowry death there is the cruel hand of a woman, and they must assist in spreading social awareness among the people, particularly woman folk, of the new measures enacted in the law to contain the evil of dowry. Religious and social organisations can, of course, play the role of a crusader to establish an appropriate moral and ethical climate which can act as the needed antidote.

10. LEGISLATION IN INDIA PROHIBITING *SATI*: INDIAN *SATI* REGULATION ACT 1829 AND THE INDIAN PENAL CODE AND THE ANTI-*SATI* ORDINANCE (RAJASTHAN) AND THE COMMISSION OF *SATI* (PREVENTION) ACT OF 1987 (INDIA)

Sati is the Hindu tradition whereby a wife immolates herself on the husband's funeral pyre. It predominantly occurs in India. *Sati* is a crime under the *Indian Sati Regulation Act 1829* and the Indian *Penal Code.* There has been a resurgence of the practice of *Sati* as can be seen by the burning of Roop Kanwar in 1987. Despite the fact that there were government servants and police present and that the burning took place in broad daylight, there was no action by the state to stop the killing. It should be noted at this point that the existing law in India states that murder and suicide are illegal and punishable. Involuntary *Sati* is also treated as murder by the Penal Code.

Following the Roop Kanwar incident, the Rajasthan government passed an *Anti-Sati Ordinance.* The ordinance prescribes the death sentence for abetment of *Sati*. A major problem with the ordinance is that it punishes the widow for attempting *Sati*. She can be imprisoned for 1-5 years and fined Rs. 5,000-20,000.

The Central government also passed the *Commission of Sati (Prevention) Act* on December 15, 1987.

The practice of *Sati*, which is the burning alive of a Hindu widow on the funeral pyre of her husband, ostensibly through a voluntary act of self immolation by the widow, but mostly accomplished under compulsions generated by the pressure and torture inflicted on the helpless woman by unscrupulous relatives, is an inhuman crime which was widely prevalent in Bengal and in parts of Rajasthan. The religious rites associated with this institution as also the act in itself was not only immoral and wicked but it was also not an essential part of Hindu doctrine or practice. It might be that self-seeking priest-hood gave it a spacious basis in some texts of the Dharmasastras, but Maxmuller rightly ridiculed such unsavoury attempt to secure vedic sanction for this gruesome act of murder as the most flagrant instance of what a corrupt priesthood could do to defile the Sastric Texts.

The high incidence of *Sati* among Brahmin widows in Bengal in the British period was linked with the Dayabhaga System of inheritance which gave property rights to Hindu widows. The cruel design of the surviving coparceners to deprive the widow of the inheritance was, perhaps, the motive behind the glorification of *Sati* and the encouragement lent to the widow to indulge in this vile act of human sacrifice on some strained and superstitious view of the marital obligations owed to the husband.

Be it as it may, Lord William Bentick outlawed this practice in 1829 to dissociate religious beliefs and practices from blood and murder. He categorically declared in regulation 17 of 1829: "After promulgation of this regulation all persons convicted of aiding and abetting in the sacrifice of a Hindu Widow by burning and burying her alive, whether the sacrifice be voluntary on her part or not shall be deemed guilty of culpable homicide and shall be liable to punishment by fine or imprisonment or both". With the enactment of the Indian Penal Code in 1860, *Sati* was not defined a separate offence. Those who instigated and participated in the crime were tried under Section 306 of the Code, i.e. Abetment of Suicide.

In Tejsingh Vs. State, Waneboo C.I. of the Rajasthan High Court took strong exception to the lenient sentence awarded by a District Judge for the offence of abetting the commission of *Sati* which carries a jail sentence that could extend up to 10 years under Section 306 of the Indian Penal Code. Though the practice of *Sati* and the abetment thereof have been outlawed for more than a century and half now, yet it is unfortunate that the institution and the crude religious rites associated with it have continued with unabashed rigour. Roop Kanwar's death in the village of Deorala in Rajasthan in the recent past has once again focussed public attention on this social malady and the need has been keenly felt to enact a comprehensive legislative ban of *Sati*. Parliament has responded with the passing of a special legislation on the subject: The Commission of *Sati* (Prevention) Act 1987--in a determined attempt to root out this vicious scourge from our society.

Synopsis

Description. The *Sati* Prevention Act-87[n] (Act No. 30 of 1988) which received the assent of the President of India on the 3rd of January, 1988 is a complete code on the subject. Being a special law which exclusively deals with offences connected with the practice of the *Sati*, it overrides cognate provisions of the I.P.C. viz. Sec. 300 (Exception 5), See. 305, 306, 307, 308 and 309 possibly the provisions relating to common intention and unlawful assembly even though their theoretical rationale may be pressed into service to hold every participant as individually guilty irrespective of the nature of his involvement. The Act is divided into five parts and consists of 22 Sections. While a complete account of the statutory scheme, set up by this Act, is outside the purview of the present paper, attention may, nevertheless, be invited to some of its key features. The Act defines *Sati* (See. l) to mean the burning or burying alive of (i) any widow with the body of her deceased husband or any other relative or any article of the husband or (ii) any woman along with the body of any relative, irrespective of whether the act is claimed to be the

result of some voluntary act on the part of the widow or woman or otherwise. The definition reflects the practical difficulties that might arise in securing criminal conviction of offenders who have actively conspired or aided in bringing the act to fruition if attempt is made to distinguish the few cases, where the commission of *Sati* may be said to be a wholly voluntary act on the part of the woman. In the traumatic background following the death of the husband and in an emotionally charged atmosphere when the lady is intensely under the influence of the encouragement lent to her by making her falsely believe that the act is compelled by religion and necessary for her spiritual advancement, her consent to sacrifice her life can hardly be claimed to be voluntary. Hence it is not possible to equate Sail-related deaths with the more common cases of suicidal deaths. *Sati* is an institutional evil which is a category suigeneris by itself and a whole mass of people of particular communities brought up under the false compulsions of tradition and usage to believe in the spiritual efficacy of *Sati* are actively engaged in facilitating its commission by glorifying it. Hence it merits special treatment.

The Act provides for punishment for the offence of an attempt to commit *Sati* (Section 3) by prescribing imprisonment for a term which may extend to one year or with fine or with both. The Court, is however, empowered to take into consideration all the circumstances and the state of mind of the offender-woman (unsuccessful in her attempt at self immolation) before adjudicating on the guilt and determining the quantum of punishment. The Act has preferred to treat the woman involved as an offender and not as a victim of the offence. Once that course was adopted it was logical that collaborators and others participating had to be dealt with as abetors. Persons who abet the commission of *Sati*, whether directly or indirectly shall be punishable with death or imprisonment for life (Section 4 of the Act). This new provision may create problems of interpretation when it is read in juxtaposition with Section 300 (exception 5) (so far as it applies to *Sati*), under which culpable homicide is not murder when the persons whose death is caused being above the age of 18 years, suffers death or takes the risk of death with his own consent. It is possible that a person who persuades a Suttee to reascend the pyre after she had left it (See the old case of Sahehlall-1863 TRJPJ 174) can now be charged both under section 300 IPC (exception 5) and under Section 4 of the *Sati* Act, 1987.

Be that as it may, by virtue of Section 304 of the IPC, culpable homicide not amounting to murder shall be punishable with imprisonment for life or imprisonment for a lesser term which may extend up to 10 years, but it does not carry death penalty. However, under Section 4 of the *Sati* prevention Act-1987, the abetment of *Sati* is punishable with death or with imprisonment for life. Therefore, it is no more now possible to view *Sati* related abetment as a case covered either by exception '5' of Section 300 or Sections 305 and 306, Of the I.P.C. so far as the question of sentence is concerned.

Further, the abetment of attempt to commit *Sati* is punishable with imprisonment for life. The explanation to Section 4 catalogues the kinds of acts which shall be deemed to be abetment. Under the said explanation inducement to the widow or woman to get burnt or buried alive along with the body of her deceased husband or with any other relative or with any article associated with the husband or the relative; making the widow believe that *Sati* would conduce to her or her husband's spiritual benefits, participating in any procession related to the commission of *Sati*, being present at the place where *Sati* is committed as an active participant, obstructing the widow from saving herself or the Police from discharging their duties to prevent *Sati* are all acts of abetment which carry death penalty or life imprisonment. The Act, has prescribed the most deterrent penalty and there is no provision, under section 4, conferring on the sentencing Court a discretion to award a lesser sentence, even if there are extenuating circumstances which merit a lenient sentencing. Apart from the severity of the sentencing provisions, yet another highly objectionable feature of the Act is the provision relating to burden of proof. Under Section 16 of the Act when any person is prosecuted for the offence of abetment of *Sati* or abetment of attempt to commit *Sati*, burden of proof to show that he had not committed the offence shall be upon him. For the most heinous crimes, like cold blooded murders, Bride Burning, and Dowry related deaths and Dacoity, the due process requirement of presumptive innocence of the accused is steadfastly adhered to because the evidence Act and Code of Criminal Procedure apply to their trial. There can be no rhyme or reason for departing from this time honoured rule of presumption and from the requirement that the prosecution shall prove the guilt of the accused beyond reasonable doubt, simply because the offence we are dealing with is one under the *Sati* Prevention Act, 1987. When the burning of the *Sati* is carried out in full view of the public what difficulty the Police can have in collecting evidence ? It is submitted that Section 16 of the Act is violative of Article 21 of the Constitution, as also Article 14 which enjoins that the State shall not deny equal protection of the laws. Prescribing an altogether new procedure for trial of *Sati* offenders in the manner done by Section 16 of the Act is totally incompatible with settled principles of the Criminal Jurisprudence. The Constitutional credentials of Section 16 of the Act are thus suspect.

In the Antulay's Case, the Supreme Court ruled that a trial by a fair procedure under a law, which is constitutional and valid, is of the essence of the requirement of Article 21 of the Constitution. In the light of this recent decision and also having regard to the well entrenched constitutional doctrine of fundamental fairness in criminal administration of justice, it is difficult to see how section 16 of the *Sati* Act can survive a constitutional challenge to

its validity. The section also violates Art. 14 (2) of the UN-U.N. Covenant on civil and political Rights, which India has ratified.

Under Section 5 of the Act, "Glorification of *Sati*" is punishable with imprisonment for a term which shall not be less than one year but which may extend to 7 years and with fine which shall not be less than 5,000 but which may extend to Rs. 30,000. These penal measures also seem to be excessively severe and their constitutionality may also be assailed on the touchstone of Article 14 and 21 of the Constitution. It is true, our Supreme Court has not gone to the length of holding that a punishment which is excessively harsh and severe is incompatible with the restraints of the constitutional requirement of due process. But the creative phase in judicial development of due process is not yet over.

Section 7 of the Act empowers the State Government. to remove temples or other structures dedicated for *Sati* worships and performance of ceremonies carried on with a view to perpetuating the honour and memory of any person in respect. of whom *Sati* has been committed. Under Section 8 of the Act, the Collector or the District Magistrate has also power to seize the properties and funds collected for the purpose of glorification of *Sati*. These are, of course salutory provisions. But it is a moot point as to whether statutory ban of *Sati* worship in temples infringes Article 25 of the Constitution, which guarantees freedom of conscience and freedom of religion. Of course, on a realistic interpretation of the Hindu religion, it should be possible for the Supreme Court to hold that *Sati* worship and connected ceremonies are not part of the Hindu religion. More over the right under Art. 25 is expressly subject to public order, morality and health and it is also within the regulatory power of the State to limit its exercise on the grounds mentioned in sub-clause 2 of that Article. The most noteworthy feature of the Act is the provision for creation of Special Courts for the trial of *Sati* related offences. Part IV of the Act provides for the creation, composion, powers and functions of the Special Courts. Yet another significant provision is that a person convicted by the Special Court for any offence under the Act shall be disqualified for a period of 5 years for the purpose of contesting any election under the Act i.e. People's Representation Act, 1951. This punitive measure is obviously intended to act as a deterrent against political leaders who in the recent past are known to have exploited the religious sentiments of sensitive voters by glorifying *Sati* worship.

Be that as it may, the penal provisions of the Act are controversial and they are on that score apt to generate interpretational problems. Consider, for example, Section 3 of the Act which provides for punishment by way of imprisonment which may extend up to one year for the women offender guilty of attempt to commit *Sati*. But the abettor of the same offence shall be punishable with life imprisonment and the Court has no discretion in the matter. There is glaring inequality here in this situation of a mandatory life term in jail for the offence of abetment when the substantive offence carries a very light penalty. It may be that the woman who is unsuccessful in the attempt is the victim of socio-psychological pressures generated by unscrupulous persons who have forced her into the unsuccesful attempt. A finding in that respect must depend upon the special facts of the case. But there can be cases where the abettor can plead extenuating circumstances in defence. What if the woman voluntarily sought his aid and he assists her by any act or illegal omissions so as to facilitate the commission of the offence? He will certainly be considered as an abettor within the meaning of clause "Thirdly" of See. 107 of IPC. An omission to inform near relatives of the imminence of the *Sati* Act which has the effect of aiding the woman to make the attempt itself, can qualify to be considered as an abetment under section 4 of the Act. Is it proper to impose mandatory jail term for life on the abettor for the said omission, without carefully weighing all relevant circumstances including the age, status, education and social antecedents of the offender. As the law exists now, the Court has no discretion to go into these matters although from the stand point of an enlightened penelogy their consideration cannot be excluded from judicial verdict by a legislative fiat. The vice of section 4 is that it falls foul of Art. 14 of the Constitution as the rationale behind the differential treatment in respect of the abettor is questionable especially in view of the obligatory nature of the sentencing requirement. It is also open to challenge on grounds rooted in Art. 2173.

11. PROHIBITION IN LEGISLATION OF FEMALE GENITAL MUTILATION. FRENCH PENAL CODE ART 312-3 (FRANCE)

The French law has criminalised excision, defining ablation of the clitoris resulting from wilful acts of violence as mutilation. Recently, 1994 amendments to the French Criminal Code has increased the severity of punsihment for offences of mutilation.

Synopsis

Description. The Criminal Courts in 1983 had already established that "ablation of the clitoris" resulting from wilful acts of violence constitutes mutilation. A specific article concerns assault of infants under 15 and makes carrying out this offence by legitimate, natural or adoptive mother or father or another person with authority over the child or responsible for his or her custody an aggravating circumstance. This article states that the person guilty of

assault and battery is liable to a term of imprisonment if the offence has resulted in: *"mutilation, amputation or deprivation of the use of a limb, blindness, the loss of an eye or other permanent disability or death without intent".* Since 1994, the French Criminal Code severely punishes violence resulting in mutilation (Article 222-9 and 222-10 of the Criminal Code). Where the victim is a child under 15 years, the maximum penalty incurred is 15 years imprisonment rising to 20 years imprisonment where the offence is committed by parents or grandparents. Additionally, the Act of July 15 1989 on the protection of children specifies that persons who have knowledge of violence against a minor under 15 years are under a legal obligation to report it. The Criminal Code specifies that professional secrecy cannot be argued in this case.

Implementation details. There have been three recent significant decisions concerning excision. They all involved prison sentences and both mother and father were prosecuted. Mothers have been given sentences of 5 years (4 of which were suspended) and a polygamous father suspended sentence of 3 years and 1 month immediate imprisonment and his two wives were given suspended sentence of 4 years.

Evaluation. France now recognises that an active policy to combat the practice of sexual mutilation must necessarily combine prevention and law enforcement. Awareness-raising, information and training measures have been developed by medical personnel and social workers. The training courses employ teaching aids (information booklets, films etc.) produced and published with state assistance. Associations working to combat female genital mutilation also receive state support.

(ii) Violence in the Community

1. Broad definition of sexual intercourse: New South Wales, Australia

New South Wales, Australia, Victoria and New Zealand define sexual intercourse ti3r the purposes of rape and other sexual crimes to encompass acts which include anal, oral or vaginal penetration by a part of a man's body, an object or cunnilingus.

2. Definition of consent: New South Wales

In New South Wales, the complainant's consent is not an issue when the offender maliciously inflicts grievous bodily harm, actual bodily harm with a weapon. All that needs to be proven is that the offender intended to have sexual intercourse.

New South Wales provides that where consent to sexual intercourse is obtained through a "non violent threat" intimidatory or coercive conduct or other threat, not involving a threat of physical force in circumstances where the complainant could not reasonably be expected to resist the threat and where the offender is aware that submission is gained because of the threat, the offender is liable to 6 years imprisonment: *Section 65A Crimes Act 1900.*

3. Burden of proof for consent in India

Some countries have criminalised sexual acts in circumstances where the woman's consent to sexual intercourse is questionable. For example, *Section 376B-D Indian Penal Code 1860* and the Criminal Law (Amendment) Act 1983 criminalises "custodial rape" i.e. sexual intercourse between and custodian and the person in custody is seen as without consent.

4. Definition of consent: New Zealand

New Zealand seeks to protect individuals who are psychologically/commercially vulnerable to sexual coercion by the crime of "inducing sexual connection by coercion" which occurs when sexual activity takes place when the offender knows that the complainant consents because of the offenders position of power. *Section 129A Crimes Act 1961* states that such an offence is punishable by up to 14 years imprisonment.

Examples of Promising Practices Relating to Violence in the Community:

12. INDIA PENAL CODE & DELHI COUNCIL DIRECTIVE (INDIA)

In India, *section 509 penal Code* establishes the offence of insulting the modesty of a woman, whether by word or conduct. Further, the Delhi Metropolitan Council has criminalised “eve teasing”, which is defined as words, spoken or written or signs or visible representations or gestures, or acts or reciting or singing indecent words in public places by a man to the annoyance of a woman. This crime is punishable by a minimum of 7 days of imprisonment.

13. DEFINITION OF SEXUAL HARASSMENT: THE FEDERAL AUSTRALIAN ACT (AUSTRALIA)

The *Federal Australian Act* provides under:
Section 28(3) A person shall for the purposes of this section, be taken to sexually harass another person if the first-mentioned person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the other person, or engages in other unwelcome conduct of a sexual nature in relation to the other person, and:

a) the other person has reasonable grounds for believing that a rejection of the advance, a refusal of the request or the taking of objection to the conduct would disadvantage the other person in any way in connection with the other person's employment or work or possible employment or work; or
b) as a result of the other person's rejection of the advance, refusal of the request or taking of objection to the conduct, the other person is disadvantaged in any way in connection with the other person's employment or possible work;
c) to conduct of a sexual nature in relation to a person includes a reference to the making, to, or in the presence of a person, of a statement of a sexual nature concerning that person, whether the statement is made orally or in writing.

14. DEFINITION OF STALKING IN THE UNITED STATES: INTERSTATE STALKING PUNISHMENT AND PREVENTION ACT OF 1996 (UNITED STATES OF AMERICA)

In the United States, stalking captured national attention in the late 1980's with the murder of television actress Rebecca Schaeffer by an obsessed fan who stalked her for two years. Her death is often cited as prompting the passage of the nation's first State antistalking law in California in 1990. Since then, all States and the District of Columbia have modified their laws to criminalize stalking behaviours, usually in response to incidents of violence against women. In 1996, a Federal law prohibiting interstate stalking was also enacted.

Synopsis

Description. The term "stalking" means “engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily injury to himself or herself or a member of his or her immediate family, when the person engaging in such conduct has knowledge or should have knowledge that the specific person will be placed in reasonable fear of death or bodily injury to himself or herself or a member of his or her immediate family and when the conduct induces fear in the specific person of bodily injury to himself or herself or a member of his or her immediate family”.

Last September, the President signed H.R. 3230, the National Defense Authorization Act for Fiscal Year 1997, which contained § 1069, the Interstate Stalking Punishment and Prevention Act of 1996. This provision establishes a felony offense of interstate stalking, 18 U.S.C. § 2261A, modelled on the existing interstate domestic violence offense. 18 U.S.C. § 2261, which was part of the 1994 Crime Act. The new statute in part provides: “Whoever travels across a State line or within the special maritime and territorial jurisdiction of the United States with the intent to injure or harass another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury (as defined in section 1365 (g) (3) of this title) to, that person or member of that person's immediate family (as defined in section 115 of this title) shall be punished as provided in section 2261 of this title”.

Implementation details. The Department of Justice supported the enactment of this legislation. It fills a gap in existing Federal law, which reached interstate domestic violence (under § 2261 and § 2262) but did not cover essentially similar types of conduct where the victim either has not had an intimate relationship with the offender or has not obtained a protection order. The statute addresses cases where the interstate nature of the offense may create difficulties for effective State investigation and prosecution. The authorized penalties are the same as those provided for interstate domestic violence in 18 U.S.C. §2261.

The Department of Justice has adopted an implementation strategy involving Federal leadership through outreach, research, and the provision of training and technical assistance. The Department has distributed guidance on this legislation to all United States Attorneys' offices. In addition, Assistant U.S. Attorneys who have been designated by U.S. Attorneys, at the direction of the Attorney General, to serve as points of contact on domestic violence issues have attended a seminar on the enforcement of the VAWA. This seminar included a presentation on the Federal antistalking legislation.

Resource person or organization to contact for further information
Office of Policy Development
U.S. Department of Justice

Selected sources
1. Domestic Violence and Stalking: The Second Annual Report to Congress under the Violence Against Women Act (US DOJ Office of Justice Programs Violence Against Women Grants Office)

15. STATE ANTISTALKING LEGISLATION IN TEXAS AND MINNESOTA (UNITED STATES OF AMERICA)

In the past year several State legislatures have amended their antistalking laws as a result of successful constitutional challenges or adverse judicial interpretations of statutory language, which has made it more difficult to prosecute alleged stalkers. For example, in 1996 the Texas Court of Criminal Appeals ruled that the 1993 Texas antistalking law was unconstitutionally overbroad because it addressed conduct protected by the First Amendment.

The governor called for emergency action, and legislators amended the statute in January 1997. The amendments clarify the elements of stalking and state that, to be in violation of the statute, the actor must knowingly engage in conduct that the actor "knows or reasonably believes the other person will regard as threatening."

The Minnesota legislature is amending that State's 1993 antistalking law after the Minnesota Supreme Court interpreted the statute as requiring specific intent. The court expressed concern about the possibility that defendants could be convicted of "accidental stalking" so long as the victim felt harassed. The court stated that a broader interpretation might lead to a finding that the entire statute was unconstitutionally vague. The legislature is reviewing language that would make stalking a general intent crime instead of a specific intent crime.

16. DEFINITION OF STALKING: A MODEL STALKING STATUTE (UNITED STATES OF AMERICA)

After reviewing the various stalking statutes in the United States, an article in the Cardozo Law Review develops a. *Model Stalking Statute* which addresses shortcomings in the existing stalking laws.

Synopsis

Text. The proposed model statute provides:

(1) Stalking Prohibited:

Any person who wilfully, maliciously, and repeatedly follows or harasses another person, and who makes a credible threat, *either expressed or implied*, with the intent to place that person or a member of that person's immediate family in fear of death or great bodily injury is guilty of the crime of stalking, punishable by imprisonment in a county jail for not more than one year or by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(2) Aggravated Stalking Prohibited:

(a) Any person who violates subdivision (1) when there is a temporary restraining order or an injunction, or both, in effect prohibiting the behaviour described in subdivision (1) against the same party, is punishable by imprisonment in a county jail for not more than five years or by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

(b) A second or subsequent conviction of stalking against the same victim, is punishable by imprisonment in a county jail for not more than five years, or by a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment

(c) A second or subsequent conviction of aggravated stalking against the same victim shall be punishable by a term of imprisonment of an additional five years of punishment.

(3) Definitions:

(a) For the purposes of this section, "harasses" means a knowing and wilful course of conduct directed at a specific person which includes but is not limited to, unconsented contact, which seriously alarms, annoys, or terrorizes the person, and which serves no legitimate purpose. The course of conduct must actually cause substantial emotional distress to the person. "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. "Unconsented contact" means

any contact with another individual that is initiated or continued without that individual's consent, or in disregard of that individual's expressed desire that the contact be avoided or discontinued.

(b) For the purposes of this section, "a credible threat" means a threat, expressed or implied, made with the intent and apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family. An "implied threat" arises out of any contacts made in the domestic violence context such that the recipient of the contact sustains fear.

The court, in determining whether the defendant made an implied threat, may consider the following factors: (1) the nature and circumstance of the offense charged; and (2) the history and characteristics of the defendant, including: (a) any evidence of the defendant's prior criminal history indicative of violent, abusive, or assaultive behaviour, or lack of that behaviour; (b) any evidence of the defendant's psychological psychiatric, or other similar social history that tends to indicate a violent, abusive, or assaultive nature, or lack of any such history; and (c) whether the defendant is known to possess or have access to any weapon or weapons.

(4) Administrative Mandate:

In accordance with subsections (1) and (2), computerized information tracking systems shall be established to record complaints of domestic violence and violations of protective orders.

(5) Exemptions:

This statute shall not apply to constitutionally protected activity, lawful business activity, or otherwise lawful conduct arising out of a bona fide labour dispute.

Implementation details. The proposed statute is modelled on the California stalking law. The changes made are highlighted in italics and explained in Part B.

Selected sources

1. "Living Under Siege: Do Stalking Laws Protect Domestic Violence Victims?" 15 Cardozo Law Review (1993) 525.

17. COUNCIL OF EUROPE MODEL ON RAPE AND SEXUAL ABUSE OF WOMEN (COUNCIL OF EUROPE)

RESOLUTION

ON RAPE AND THE SEXUAL ABUSE OF WOMEN

1. The Ministers of the States participating in the 3rd European Ministerial Conference on Equality between Women and Men, held in Rome on 21-22 October 1993;
2. Considering that rape and sexual abuse are still today, as in the past, used by men to impose their power and authority over women, and as an instrument of intimidation;
3. Recalling and endorsing the recent declarations and statements of the international community condemning the systematic use of rape of women within the context of a strategy of warfare and ethnic cleansing;
4. Considering that such declarations and statements have contributed towards alerting public opinion to these particularly serious violations of human rights;
5. Believing it is equally important to alert public opinion to the numerous and multifarious individual acts of rape and sexual abuse occurring within society;
6. Noting that, under exceptional conditions, women can be particularly vulnerable, such as in the case of armed conflicts, situations resulting from political and economic deterioration (refugees, migrants, displaced persons, etc) or when they are deprived of their liberty;
7. Drawing attention to the scale and number of individual acts of rape and sexual abuse of women both within and outside the family;
8. Considering it essential to lift the silence which surrounds such acts;

I. AFFIRM that rape and the sexual abuse of women:

a) are always an infringement of the dignity, liberty and integrity of women, having serious social, psychological and other consequences;

b) are therefore serious violations of human rights and fundamental freedoms, and, as such, should be sanctioned by national and international penal tribunals;

c) when resulting from the abuse of discretionary power by public officials, engage the responsibility of States under international human rights instruments;

II. APPEAL to participating States to take steps of a preventive nature to eradicate rape and the sexual abuse of women, to encourage actively women to report cases of rape and sexual abuse and to take vigorous action so that such acts are effectively sanctioned and support is provided for the victims;
III. RECOMMEND that members of national and international judicial bodies called on to handle cases of rape and sexual abuse are given specific training and that such bodies should comprise an appropriate number of women;
IV. AGREE to intensify their co-operation to that end both within the Council of Europe and other European and international fora.

Examples of Promising Practices Relating to Violence by the States:

18. CUSTODIAL VIOLENCE AGAINST WOMEN (INDIA) (TO BE ADDED)

Section 376B-D Indian Penal Code 1860 and the Criminal Law (Amendment) Act 1983 criminalises "custodial rape" i.e. sexual intercourse between and custodian and the person in custody is seen as without consent.

19. ACT NO. 54 (SUBSTITUTE TO S.B. 90 AND S.B.470) (CONFERENCE OF THE 1ST SESSION OF THE 11TH LEGISLATURE OF THE COMMONWEALTH OF PUERTO RICO (1989) SEC. 1.3 (PUERTO RICO) (TO BE ADDED)

20. LAW AGAINST VIOLENCE AGAINST WOMEN AND THE FAMILY, OFFICIAL REGISTRATION NO., 839, 11 DECEMBER 1995 (ECUADOR) (TO BE ADDED)

21. DOMESTIC VIOLENCE BILL, 15 DEC. 1993 (MALAYSIA) (TO BE ADDED)

22. SWEDISH PARENTHOOD AND GUARDIANSHIP CODE (SWEDEN) (TO BE ADDED)

23. ACT 484 CRIMINAL CODE (AMENDMENT) ACT, 1994 (GHANA) (TO BE ADDED)

24. MEXICO'S DEFINITION (MEXICO) (TO BE ADDED)

(C) FIREARMS RESTRICTIONS

Section 6(c)(i) of the Model Strategies urges Member States to review, evaluate, and revise their criminal laws in order to ensure that violent offenders can be restricted in their possession and use of firearms and other regulated weapons, within the framework of their national legal systems.

Examples of Promising Practices Relating to Firearms Restrictions:

1. LEGISLATIVE REQUIREMENTS ON FIREARM RESTRICTIONS FOUND IN THE DOMESTIC VIOLENCE ACT 1995 (NEW ZEALAND)

2. LEGISLATIVE REQUIREMENTS ON FIREARM RESTRICTIONS - QUEENSLAND WEAPONS ACT 1990 (AUSTRALIA)

3. LEGISLATION DEALING WITH FIREARMS RESTRICTIONS - CANADIAN CRIMINAL CODE SECTION 100 (CANADA)

1. LEGISLATIVE REQUIREMENTS ON FIREARM RESTRICTIONS FOUND IN THE DOMESTIC VIOLENCE ACT 1995 (NEW ZEALAND)

In the 1995 New Zealand Domestic Violence Act there are a number of sections that pertain to firearms restrictions. Section 21 contains the standard conditions relating to weapons in terms of protection orders. Section 22 allows courts to dispense with, modify, discharge, or re-impose standard conditions relating to weapons. Section 24 sets out further provisions relating to the effect of standard conditions relating to weapons in protection orders. Section 90 reminds police to consider exercising power under the Arms Act 1983.

Synopsis

Text. Section 21: Standard Condition Relating to Weapons
(1) Subject to section 22 of this Act, it is a condition of every protection order:
(a) That the respondent must not possess, or have under his or her control, any weapon; and
(b) That the respondent must not hold a firearms licence; and
(c) That the respondent must:
(i) As soon as practicable after the service on him or her of a copy of the protection order, but in any case no later than 24 hours after such service; and
(ii) On demand made, at any time, by any member of the Police, surrender to a member of the Police
(iii) Any weapon in the respondent's possession or under the respondent's control, whether or not any such weapon is lawfully in the respondent's possession or under the respondent's control; and
(iv) Any firearms licence held by the respondent.

(2) Subject to section 22 of this Act, on the making of a protection order:
(a) Where the protection order is a temporary order, any firearms licence held by the respondent is deemed to be suspended:
(b) Where the protection order is a final order, any firearms licence held by the respondent is deemed to be revoked.

(3) The respondent does not fail to comply with the standard condition contained in subsection (1) of this section merely by having in his or her possession, or having under his or her control, any weapon or any firearms licence, where,
(a) In the case of a weapon, the weapon was in his or her possession, or under his or her control, immediately before the making of the protection order; and

(b) In the case of a weapon or a firearms licence, the weapon or licence is in his or her possession, or under his or her control, during the period necessary to comply with the terms of that standard condition that relate to the surrender of the weapon or licence.

(4) Subject to section 22 of this Act, where, pursuant to that section, a protection order is varied so as to include the standard condition relating to weapons:

(a) The reference in subsection (1) (c) (i) of this section to service of a copy of the protection order is to be read as a reference to service of a copy of the order by which the standard condition is so included:

(b) The references in subsections (2) and (3) (a) of this section to the making of a protection order are to be read as references to the making of the order by which the standard condition is so included, and the provisions of this Act apply accordingly with all necessary modifications.

(5) Subject to section 22 of this Act, where, pursuant to a direction made under section 17 of this Act, a protection order applies against an associated respondent, the provisions of this section apply, with all necessary modifications, in respect of the associated respondent.

Section 22. Court may dispense with, modify, discharge, or re-impose standard condition relating to weapons--- (1) Where:

(a) The Court makes a final protection order on an application on notice; or

(b) Pursuant to section 80 (1) of this Act, the Court:

(i) Discharges a temporary protection order and makes a final protection order in its place; or

(ii) Confirms a temporary protection order to the extent that it has not already become final, the Court may, subject to section 23 of this Act;

(c) Direct that the standard condition relating to weapons is not to be a condition of the protection order; or

(d) Modify the terms of that standard condition.

(2) Subject to section 23 of this Act, the Court may, if it thinks fit, on the application of the applicant or the respondent, vary a protection order:

(a) Where the standard condition relating to weapons is not a condition of the protection order, by directing that the standard condition relating to weapons (whether with or without modification) is to be a condition of the protection order:

(b) Where the standard condition relating to weapons is a condition of the protection order (whether with or without modification), by:

(i) Discharging the standard condition relating to weapons:

(ii) Modifying the terms of that standard condition.

(3) Subject to section 23 of this Act, where a protection order applies against an associated respondent, the Court may, on the application of the applicant or the associated respondent, vary the protection order, in so far as it relates to the associated respondent:

(a) Where the standard condition relating to weapons is not a condition of the protection order, by directing that the standard condition relating to weapons (whether with or without modification) is to be a condition of the protection order:

(b) Where the standard condition relating to weapons is a condition of the protection order (whether with or without modification), by:

(i) Discharging the standard condition relating to weapons:

(ii) Modifying the terms of that standard condition.

(4) For the avoidance of doubt (but without limiting subsection (3) of this section), it is hereby declared that a Court may:

(a) Direct that the standard condition relating to weapons:

(i) Is not to be a condition of a protection order, in so far as the protection order relates to the respondent; but

(ii) Is to be a condition of a protection order (whether with or without modification), in so far as the protection order relates to the associated respondent

(b) Discharge the standard condition relating to weapons in so far as the condition relates to the respondent, but not in so far as the condition relates to the associated respondent.

(5) Where an application is made under subsection (2) or subsection (3) of this section in respect of a temporary protection order, the Registrar must assign a hearing date, which must be

(a) As soon as practicable; and

(b) Unless there are special circumstances, in no case later than 42 days after the application is made.

(6) Sections 9, 11, and 12 of this Act, so far as applicable and with the necessary modifications, apply in relation to:

(a) Any application under this section, on behalf of a protected person, for:

(i) A direction that the standard condition relatin9 to weapons be a condition of a protection order; or

(ii) The modification or discharge of the standard condition relating to weapons; and

(b) The defending, on behalf of a protected person, of any such application made by the respondent or the associated respondent, as they apply in relation to the making of an application for a protection order.

Section 24. Further provisions relating to effect of standard condition relating to weapons

(1) Where:

(a) A temporary protection order becomes a final order in accordance with section 77 (1) of this Act; and

(b) At the time the order becomes final, any firearms licence held by the respondent or an associated respondent is suspended pursuant to section 21 (2) of this Act, that firearms licence is deemed to be revoked.

(2) Where a person's firearms licence is suspended pursuant to section 21 (2) of this Act,

(a) That person is deemed, for all purposes, not to be the holder of a firearms licence during the period of the suspension; but

(b) Immediately on that suspension ceasing to be in force, then, except where the firearms licence is revoked (whether pursuant to subsection (1) of this section or otherwise) or ceases to be in force, that firearms licence revives.

(3) Where, pursuant to subsection (1) of this section or section 21 of this Act, a firearms licence is revoked or deemed to be revoked, that revocation has effect as if the firearms licence had been revoked pursuant to section 27 of the Arms Act 1983, except that nothing in this subsection

(a) Limits the terms of the standard condition relating to weapons; or

(b) Confers on any person any right to appeal to any court, other than under section 91 of this Act, against the revocation of that firearms licence.

Section 90. Police to consider exercise of powers under Arms Act 1983

(1) This section applies where a copy of an order, or a copy of a copy of an order, is made available to the officer in charge of a Police station in accordance with section 88 (2) of this Act, except where

(a) The order discharges a protection order, and no other protection order is made in substitution for that protection order; or

(b) The order discharges an order made under Part III of this Act, and no other order under that Part of this Act is made in substitution for that order; or

(c) The order varies an order made under Part III of this Act.

(2) Where this section applies, the officer in charge of the Police station must immediately establish whether or not the respondent and any associated respondent named in the order hold a firearms licence.

(3) Where this section applies, and the officer in charge of the Police station knows that the respondent or any associated respondent, or both, hold a firearms licence (whether that knowledge arises from any inquiries carried out in accordance with subsection (2) of this section, or the terms of the protection order, or otherwise howsoever), then, except where the firearms licence is deemed to be revoked pursuant to section 21 (2) of this Act, the officer in charge must arrange for an appropriate person to consider immediately whether or not the powers conferred by sections 27 (1) and 27A of the Arms Act 1983 (which relate to the revocation of a firearms licence) should be exercised in that case.

(4) Where this section applies, the officer in charge of the Police station must, in every case, arrange for an appropriate person to consider immediately whether or not the powers conferred by section 60A of the Arms Act 1983 (which relates to the seizure of a firearm in cases of domestic violence) should be exercised in that case.

2. LEGISLATIVE REQUIREMENTS ON FIREARM RESTRICTIONS - QUEENSLAND WEAPONS ACT 1990 (AUSTRALIA)

Legislation.

4.5 Power in dangerous situations. Where a police officer suspects on reasonable grounds that a person is in premises or any place and has possession of and is using or threatening to use any weapon or any other thing in circumstances such that death or injury to any person is or is likely to be caused, whether or not any other person is actually present, the police officer and all persons acting in aid of the police officer may, using such force as is necessary for that purpose, without any warrant other than this section:
(a) enter any premises or place; and
(b) detain any person found there for such time as is reasonably necessary for the police officer to establish whether an offence has been committed; and
(c) search the premises or place and every person found there; and
(d) seize and detain any weapon or other thing which may be found on the premises or place or on any such person.

4.7 Search. When any police officer lawfully in any premises or place finds any person in or on those premises or that place under such circumstances that the police officer has reasonable grounds to suspect that the person is in possession of any weapon, licence or register in contravention of this Act, the police officer and all persons acting in aid of the police officer, using such force as is necessary, may search and, for that purpose, detain the person and possessions of the person so found and search the premises or place in which that person is found.

4.8 Search warrant. Upon complaint on oath before any justice by any police officer, that the police officer believes that any thing is, or is in the possession of any person, in or upon any place or premises, contrary to any provision of this Act, the justice may grant a warrant to any police officer to enter, re-enter and search the place or premises, and search any person found therein or thereon.

The complaint is to specify the facts and reasons for the police officer's belief and the justice may determine the matter after consideration only of those facts and reasons.

A warrant may be executed at any time and is sufficient authority for any police officer and for all persons acting in aid of the police officer:
(a) to enter and re-enter the place or premises specified in the warrant; and
(b) to search that place or premises and any person found there; and;
(c) to exercise therein the powers conferred upon a police officer by this Act; and
(d) to use such force as may be necessary to perform any of the things referred to herein; and
(e) to pass through, from, over and along any other place for the purpose of making that entry or re-entry.

For the purpose of gaining entry or re-entry to any place or premises or to search any place, premises or person a police officer may call to the police officer's aid such persons as the police officer thinks necessary and those persons, while acting in aid of that police officer in the lawful exercise of the powers of entry and search have a like power of entry, re-entry and search.

4.9 Seizure and detention of weapons, etc.
(1) Any police officer may at any time seize and detain any weapon, ammunition, licence or register, in relation to which the police officer suspects on reasonable grounds that this Act has been, is being or is about to be contravened or which the police officer believes will afford evidence as to the commission of any such contravention.

(2) A police officer who removes, seizes or retains any thing pursuant to the provisions of this Part is, wherever practical, to deliver or cause to be delivered within a reasonable time to:

(i) the owner of the thing; or
(ii) if the owner of the thing is unknown, the person from whose possession the thing was removed, seized or retained;
a written receipt containing details of:
(iii) the name, rank, station and number (if any) in the Police Force of the police officer removing, seizing or retaining the thing; and
(iv) the address of the police establishment or other place in which the thing removed, seized or retained is or is to be held; and

(v) a brief description of the thing.

3. LEGISLATION DEALING WITH FIREARMS RESTRICTIONS - CANADIAN CRIMINAL CODE SECTION 100 (CANADA)

Section 100 creates prohibition orders against the possession of firearms. ammunition or explosive devices. These orders are imposed on offenders convicted (or discharged) in connection with offences involving violence, threats of violence or firearms.
Subsection (1) imposes a mandatory prohibition of at least ten years for a first such offence, and life in any other case, if the underlying offence is punishable by 10 years or more imprisonment or is the offence of using a firearm to commit an indictable offence (s. 85). The duration of the order begins to run upon the release of the offender from any term of imprisonment.
Subsections (1.1) to (1.3), however, allow a court to relieve against the harshness of subsec. (1) in special circumstances. It would appear that Parliament envisaged that the prohibition order need not be made in circumstances analogous to those in which some courts had created a constitutional exemption from the operation of the predecessor to this section. In general, the courts had granted a constitutional exemption where the effect of the order would be to deprive the accused [usually a member of the First Nations] from pursuing an occupation such as hunting and trapping for which possession of a firearm was a necessity. In granting the exemption, the court would sometimes also place the accused on probation with terms as to the custody of the firearm when the accused did not need it to pursue his occupation.
Subsection (2) gives the court a discretion and permits making a prohibition order of up to ten years if the underlying offence is other than one noted in subsec. (1) and involves the use, threatened or attempted use of violence, is a firearm offence or certain drug offences.

The third category of such order arises when a police officer applies to a provincial court judge, on the basis of reasonable grounds, that it is not desirable in the interest of safety of any person, including the person against whom the order is sought that a particular person possess firearms, ammunition or explosives. Subsections (4) to (11) provide a detailed procedure, which is to be followed at such hearings and provides for a right of appeal against the making of, or the refusal to make, such an order.
Subsection (1 2) creates the offence of possession of firearms, ammunition or explosives in contravention of a prohibition order under this section. This offence is punishable on summary conviction or on indictment. The maximum term of imprisonment on indictment is five years.

Subsection (13) provides that a prohibition order made under this section must set out a reasonable time within which the person may dispose of the prohibited objects by turning them over to the authorities or otherwise. During the time specified in the order for disposal, the accused may not be prosecuted under subsec. (12).

Legislation
Prohibition Orders, Seizure and Forfeiture

ORDER PROHIBITING POSSESSION OF FIREARMS, ETC.
100. (1) Where an offender is convicted or discharged under section 730 of an indictable offence in the commission of which violence against a person is used, threatened or attempted and for which the offender may be sentenced to imprisonment for ten years or more or of an offence under section 85, the court that sentences the offender shall, subject to subsections (1.1) to (1.3), in addition to any other punishment that may be imposed for that offence, make an order prohibiting the offender from possessing any firearm or any ammunition or explosive substance for any period of time specified in the order that commences on the day on which the order is made and expires not earlier than

(a) in the case of a first conviction for such an offence, ten years, and
(b) in any other case, life,

after the time of the offender's release from imprisonment after conviction for the offence or, if the offender is not then imprisoned or subject to imprisonment, after the time of the offender's conviction or discharge for that offence.

(1.1) The court is not required to make an order under subsection (1) where the court is satisfied that the offender has established that

(a) it is not desirable in the interests of the safety of the offender or of any other person that the order be made; and
(b) the circumstances are such that it would not be appropriate to make the order.

(1.2) In considering whether the circumstances are such that it would not be appropriate to make an order under subsection (1), the court shall consider
(a) the criminal record of the offender, the nature of the offence and the circumstances surrounding its commission;
(b) whether the offender needs a firearm for the sustenance of the offender or the offender's family; and
(c) whether the order would constitute a virtual prohibition against employment in the only vocation open to the offender.

(1.3) Where the court does not make an order under subsection (1), the court shall give reasons why the order is not being made.

(2) When an offender is convicted or discharged under section 730 of
(a) an offence involving the use, carriage, possession, handling or storage of any firearm or ammunition,
(b) an offence, other than an offence referred to in subsection (1), in the commission of which violence against a person was used, threatened or attempted, or
(c) an offence described in subsection 5(3) or (4), 6(3) or 7(2) of the Controlled Drugs and Substances Act.
the court that sentences the offender, in addition to any other punishment that may be imposed for the offence shall consider whether it is desirable, in the interests of the safety of the offender or of any other person, to make an order prohibiting the offender from possessing any firearm or any ammunition or explosive substance and ordering the offender to surrender any firearms acquisition certificate that the offender possesses, and where the court decides that it is not desirable, in the interests of the safety of the offender or of any other person, for the offender to possess any of those things, the court shall so order.

(2.1) An order referred to in subsection (2) may be for any period of time specified in the order but shall not expire later than ten years after the time of the offender’s release from imprisonment after conviction for the offence to which the order relates, or, if the offender is not then imprisoned or subject to imprisonment, after the time offender's conviction or discharge from that offence.

(3) For the purposes of subsections (1) and (2), "release from imprisonment" means release from confinement by reason of expiration of sentence, commencement of supervision or grant of parole other than day parole.

(4) Where a peace officer believes on reasonable grounds that it is not desirable in the interests of the safety of any person that a particular person should possess any firearm or any ammunition or explosive substance, he may apply to a Provincial court judge for an order prohibiting that particular person from having in his possession any firearm or any ammunition or explosive substance.

(5) On receipt of an application made pursuant to subsection (4) or on a reference by a firearms officer, pursuant to subsection 106(7), of his opinion that it is not desirable in the interests of the safety of an applicant for a firearms acquisition certificate or of any other person that the applicant for a firearms acquisition certificate acquire a firearm, the provincial court judge to whom the application or reference is made shall fix a date for the hearing of the application or reference and direct that notice of the hearing be given to the person against whom the order of prohibition is sought or the applicant for the firearms acquisition certificate and the firearms officer, as the case may be, in such manner as the provincial court judge may specify.

(6) At the hearing of an application made pursuant to subsection (4), the provincial court judge shall hear all relevant evidence presented by or on behalf of the applicant and the person against whom the order of prohibition is sought and where, at the conclusion of the hearing, the provincial court judge is satisfied that there are reasonable grounds to believe that it is not desirable in the interests of the safety of the person against whom the order of prohibition is sought or of any other person that the person against whom the order is sought should possess any firearm or any ammunition or explosive substance, the provincial court judge shall make an order prohibiting him from having in his possession any firearm or any ammunition or explosive substance for any period of time, not exceeding five years, specified in the order and computed from the day the order is made.

(7) At the hearing of a reference referred to in subsection (5), the provincial court judge shall hear all relevant evidence presented by or on behalf of the firearms officer and the applicant for a firearms acquisition certificate and where, at the conclusion of the hearing, the firearms officer has satisfied the provincial court judge that the opinion of the firearms officer that it is not desirable in the interests of the safety of the applicant or of any other person that the applicant acquire a firearm is justified, the provincial court judge shall, by order, confirm that opinion and the refusal to issue the firearms acquisition certificate and may prohibit the applicant from possessing any firearm, ammunition or explosive substance for any period, not exceeding five years, specified in the order and computed from the day the order is made.

(7.1) Where an order is made under subsection (1), (2) or (7) any firearms acquisition certificate that is held by the person who is the subject of the order is automatically revoked.

(8) Where, at the conclusion of a hearing referred to in subsection (7), the firearms officer has not satisfied the provincial court judge that his opinion that it is not desirable in the interests of the safety of the applicant for a firearms acquisition certificate or of any other person that the applicant for a firearms acquisition certificate acquire a firearm is justified, the provincial court judge shall, by order, direct the firearms officer to issue to that person a firearms acquisition certificate and, on payment of the fee, if any, fixed for such a certificate, the firearms officer shall forthwith comply with the direction.

(9) A provincial court judge may proceed ex parte to hear and determine an application made pursuant to subsection (4) or a reference referred to in subsection (5) in the absence of the person against whom the order of prohibition is sought or the applicant for a firearms acquisition certificate, as the case may be, in circumstances in which a summary conviction court may, pursuant to Part XXVII, proceed with a trial in the absence of the defendant as fully and effectually as if the defendant had appeared.

(10) Where a provincial court judge

(a) makes an order pursuant to subsection (6) or (7), the prohibited person, or

(b) refuses to make an order pursuant to subsection (6), or makes an order pursuant to subsection (8), the Attorney General may appeal to the appeal court against the order or refusal to make an order, as the ease may be, and the provisions of Part XXVII except sections 816 to 819 and 829 to 838 apply, with such modifications as the circumstances require, in respect of such In appeal.

(11) In this section,

'appeal court" means

(a) in the Province of Ontario, the Ontario Court (General Division) sitting in the region, district or county or group of counties where the adjudication was made,

(b) in the Province of Quebec, the Superior Court, (b. 1) [Repealed. 1992, c. 51, s. 33(1).]

(c) in the Provinces of New Brunswick, Manitoba, Saskatchewan and Alberta, the Court of Queen's Bench,

(d) in the Provinces of Prince Edward Island and Newfoundland, the Trial Division of the Supreme Court, and

(e) in the Provinces of Nova Scotia and British Columbia, the Yukon Territory and the Northwest Territories, the Supreme Court;

(12) Every one who has in his possession any firearm or any ammunition or explosive substance while he is prohibited from doing so by any order made pursuant to this section

(a) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years; or

(b) is guilty of an offence punishable on summary conviction.

(13) An order made pursuant to subsection (1), (2), (6) or (7) shall

(a) specify a reasonable period within which the person against whom the order is made may surrender to a police officer or firearms officer, to be disposed of as the Attorney General directs, or otherwise lawfully dispose of any firearm or My ammunition or explosive substance lawfully possessed by that person prior to the making of the order, and during which subsection (12) does not apply to that person; and

(b) state that if that person fails to dispose of the firearm, ammunition or explosive substance within the period specified in the order, the firearm, ammunition or explosive substance is forfeited to Her Majesty and must be surrendered to a police officer or firearms officer to be disposed of as the Attorney General.

SEARCH AND SEIZURE

101. (1) Whenever a peace officer believes on reasonable grounds that an offence is being committed or has been committed against any of the provisions of this Act relating to prohibited weapons, restricted weapons, firearms or ammunition and that evidence of the offence is likely to be found on a person, in a vehicle or in any place of premises other than a dwelling-house, the peace officer may, where the conditions for obtaining a warrant exist but, by reason of exigent circumstances, it would not be practicable to obtain a warrant, search, without warrant, the person, vehicle, place or premises, and may seize anything by means of or in relation to which that officer believes on reasonable grounds the offence is being committed or has been committed.

(2) Anything seized pursuant to subsection (1) shall be dealt with in accordance with sections 490 and 491.

(3) For the purposes of this section, "dwelling-house" does not include a unit that is designed to be mobile other than such a unit that is being used as a permanent

II. CRIMINAL PROCEDURE

(A) POLICE POWERS

Section 7(a) of the Model Strategies urges Member States to ensure that the police have adequate powers to enter premises and conduct arrests in cases of violence against women, including the power to seize weapons.

Examples of Promising Practices Relating to Police Powers:

1. LEGISLATION TO CLARIFY POLICE POWERS OF ENTRY – CRIMES (DOMESTIC VIOLENCE) AMENDMENT ACT (NEW SOUTH WALES) SECTION 375-379 (AUSTRALIA)

2. GOVERNMENT POLICIES DIRECTING THE POLICE WITH RESPECT TO THE POWER OF ARREST AND CHARGING - THE BRITISH COLUMBIA VIOLENCE AGAINST WOMEN IN RELATIONSHIP POLICY (CANADA)

3. MANDATORY ARREST POLICIES IN THE UNITED STATES: A REVIEW AND CRITIQUE OF THE MINNEAPOLIS DOMESTIC VIOLENCE POLICE EXPERIMENT (UNITED STATES OF AMERICA)

4. POLICY ON THE RESPONSIBILITIES OF POLICE OFFICERS IN SPOUSAL ASSAULT CASES - DEPARTMENT O F JUSTICE CANADA, CROWN COUNSEL POLICY MANUAL 1993 PART V, CHAPTER 7 ON SPOUSAL ASSAULT (CANADA)

5. GOVERNMENT GRANTS TO ENCOURAGE ARREST POLICIES: THE U.S. DEPARTMENT OF JUSTICE VIOLENCE AGAINST WOMEN GRANTS OFFICE (UNITED STATES OF AMERICA)

1. LEGISLATION TO CLARIFY POLICE POWERS OF ENTRY – CRIMES (DOMESTIC VIOLENCE) AMENDMENT ACT (NEW SOUTH WALES) SECTION 375-379 (AUSTRALIA)

In New South Wales, Australia, police powers of entry were clarified under the Crimes (Domestic Violence) Amendment Act (NSW) sections 375-379. The following description of these sections of the Act dealing with police powers is taken from a book by Suzanne Hatty entitled Male Violence and the Police: An Australian Experience.

Synopsis

Description. In New South Wales, Australia, under the Crimes (Domestic Violence) Amendment Act, police powers of entry were clarified (s.375F). Police were granted the power to enter premises to investigate the commission of a domestic violence offence, including an offence that was currently occurring or likely to occur.

Police could be invited into the premises by a resident, irrespective of that resident's age. They could remain there at the invitation of a resident who has been, or is likely to be, the victim of a domestic violence offence, independent of the wishes of the occupier of the premises. The premises must be vacated, however, if permission is withdrawn by the victim or potential victim and the occupier.

In addition, police were granted the ability to apply for a radio/telephone warrant in instances in which entry was denied (s.3579G). The police could contact a magistrate who would issue a warrant authorising entry upon being satisfied that there are reasonable grounds to suspect or believe that a domestic violence offence has occurred, is occurring or is likely to occur.

The warrant must be executed as soon as practicable after issue, and the police were empowered to remain on the premises for the period of time required to investigate the offence and take appropriate action (s.357H).

Finally, the legislation incorporated important alterations to the civil remedies available to victims of 'domestic violence'. Previously, apprehended violence orders--orders to keep the peace--were the only civil option open to those assaulted by a spouse, including a de facto spouse. These orders did not allow for a spouse in breach of an order to be brought before the court except through applying for another order or instituting fresh proceedings for assault.

Evaluation. Not available

Selected sources

1. Hatty, Suzanne Male Violence and the Police: An Australian Experience (N.S.W.: School of Social Work, University of New South Wales: 1990)

2. Connors, Jane Violence against Women in the Family (New York: UN: 1989)

3. Seddon, N. Domestic Violence in Australia: the Legal Response (Annandale, NSW: the Federation Press: 1989)

2. GOVERNMENT POLICIES DIRECTING THE POLICE WITH RESPECT TO THE POWER OF ARREST AND CHARGING - THE BRITISH COLUMBIA VIOLENCE AGAINST WOMEN IN RELATIONSHIP POLICY (CANADA)

The British Columbia Ministry of Attorney General implemented a policy on violence against women in relationships in 1993 which was updated in 1996. Officials throughout the criminal justice system - police, Crown counsel, Corrections Branch staff, victim assistance workers and others - have been working together to be more effective in arresting and prosecuting those who assault their partners. This policy is based on the understanding that assault in intimate relationships is a crime and that victims of such crimes require and deserve the protection of the criminal justice system. The following extract is taken from the chapter on “Police” in the policy on the criminal justice system response to violence against women and children (VAWR Policy) 1996.

Synopsis

Text:

POLICE

A. Introduction

Violence within relationships has distinctive dynamics not found in other violent crimes. The use of violence within a relationship is not easily prevented. Increased public awareness, however, coupled with a rigorous arrest and charge policy have been shown to reduce violence committed against women by their partners. For the safety and security of victims, the arrest and prosecution of offenders is of paramount importance.

B. Enforcement

1. All "spouse assault" calls and calls relating to violence within a relationship, as defined in this policy, must be given priority, as the victim may be at risk.

2. The attending officer will conduct a complete investigation and ensure that the victim is provided with the attending officer's name or number, the case number and a contact phone number.

3. No-contact conditions of bail/probation orders, peace bonds and civil restraining orders (e.g.. Family Relations Act orders) provide the victim some measure of protection, so it is important that police respond promptly to reported breaches of court orders. Police action should include a recommendation that charges be laid for breaches of these orders when evidence is available.

3a. Prior to enforcing the provisions of a court order, police must ensure that it is valid and has not been amended or superseded. Police should use CPIC and the Protection Order Registry to confirm the validity and enforceability of court orders.

3b. On occasion there may be a conflict between civil and criminal orders (e.g. Family Relations Act order allowing access to children and a bail order containing a no-contact condition). In such cases, the most restrictive terms must be obeyed (e.g. the no-contact order overrides the access order).

C. Response and Arrest

1. Police officers, when there are grounds to believe an offence has occurred, should always arrest when it is in the public interest, including when it is necessary to secure the accused's attendance in court, or prevent the repetition of the offence or the commission of other offences (including interference with the administration of justice and intimidation of witnesses).

2. When an arrest is made, the accused should be held for a bail hearing before a Justice of the Peace or Provincial Court Judge in virtually every case. Although sections 499 and 503(2) of the Criminal Code, amended April 1, 1995, now empower the police to release on certain conditions without the necessity of taking the accused before a justice or a judge, these conditions will rarely be sufficient to address crimes of violence. The police have no power to impose the following conditions.'
   (i) reporting or bail supervision;
   (ii) firearms or weapons prohibitions; or
   (iii) alcohol or drug prohibitions.

A justice or a judge should be asked to consider bail supervision, and firearms and weapons prohibitions in almost every case involving violence against women in relationships. This is particularly so in light ofs.515 (4.1) of the Criminal Code which REQUIRES A JUDGE OR JUSTICE ON A BAIL HEARING FOR ANY CRIMES OF VIOLENCE OR THREAT OF VIOLENCE OR CRIMINAL HARASSMENT TO CONSIDER A FIREARMS PROHIBITION.

Depending upon the victim’s concerns and the public interest, some protection is provided to the victim and to her testimonial integrity by recommending a no-contact order, bail supervision or other appropriate conditions of bail. Such conditions or a detention order should be requested when the accused has a history of violence either within or outside the relationship.

3. When the suspect has departed the scene prior to the arrival of the police, the officer must assess the likelihood that the suspect may return and must act in order to protect the victim. That should be accomplished by trying to locate the suspect for the purpose of arrest or by completing a Report to Crown Counsel (RCC) and making an immediate request to Crown counsel for an arrest warrant.

4. The breakdown of a relationship can often result in extreme violence. The investigator should inquire of the victim whether the suspect has access to firearms. This information enables the police to:
   (i) take the necessary steps to remove firearms from the home;
   (ii) initiate action to revoke any firearms-related certificate, licence, permit or authorization, and to apply for a hearing to get a prohibition order;
   (iii) provide information for the bail hearing; and
   (iv) log the incident into their departmental record keeping, so that the police can establish the history, frequency and pattern of violence over time.

5. When a suspect is arrested and released from police custody, the victim must be notified by the police of the accused’s release and any conditions attached to his release in order to avoid situations where the victim is surprised by the assailant's return to the residence. The arresting officer should always advise the releasing officer of the telephone number and address where the victim is located, in cases where the victim has consented to provide that information. In cases of violence against women in relationships, it is not usually in the public interest for police to release an accused on an appearance notice, a promise to appear, or with the intention of compelling his appearance by way of summons, since no conditions can be attached to his release. In cases where there is a history of abuse or the victim fears for her safety, police should request that a Justice of the Peace remand the accused to appear before a judge for a bail hearing with Crown counsel present.

D. Investigation/Charge

1. A pro-active charge policy is based on the assumption that police will conduct a complete investigation in every case, including those cases that do not immediately appear likely to proceed to prosecution. The officer will pursue the investigation with a view to obtaining sufficient evidence to proceed even without the cooperation of the victim. The evidence could include an admission by the offender, photographs of injuries, medical evidence, physical evidence, and a written statement by the victim and any independent witnesses.

2. Where there is evidence indicating an offence took place, the officer will submit a RCC recommending a charge even if no injury occurred and regardless of the desires of the victim or apparent willingness of the victim to testify in a criminal prosecution. Victims should not be asked if they want charges to be laid. An officer may record, on the witness sheet, his or her impression as to whether the victim will be a reluctant or hostile witness.

3. Suspects and victims should be advised that the justice system has adopted a pro-active position in the prosecution of cases involving violence within relationships and that it is the responsibility of police and Crown counsel, not the victim, to lay and pursue criminal charges.

4. The consumption of alcohol or use of drugs by the suspect or victim should not prevent charges being recommended, unless the victim has no recollection of events and there is no other evidence on which to base a charge.

5. The fact that a victim does not provide a written witness statement should not prevent the submission of a RCC. The victim should be encouraged to provide a written statement at a later date and the officer must follow up, which may be more effective after a referral to victim services or other support services.

6. The past history of violence, the accused's record and up-to-date information on the status of the accused must be included in the RCC, as well as any comments on the present fear of the victim for her safety. RCCs proposing charges, such as threatening, criminal harassment (stalking), mischief or harassing telephone calls, should also include information on the history of violence, the victim's fears, and whether a no-contact order is sought. These types of offences may be part of a continual pattern of violence perpetrated against the victim.

7. Diversion should not be recommended by police in cases of violence within a relationship.

8. When an officer exercises discretion and does not recommend a charge, the officer's decision should be documented on the case file and affirmed by a supervisor, bearing in mind the guidelines in this policy.

9. Delays in the justice system subject the victim and other family members, especially children, to emotional stress and risk of further harm. Police and Crown counsel should cooperate to process charges as expeditiously as possible, especially where a warrant request is made. The policing agency should designate the RCC with a "K" designation to assist Crown counsel in expediting these matters.

10. The police or victim services should ensure that the victim is kept informed of the progress of the investigation, including whether or not Crown counsel has approved a charge and the bail status of the accused.

11. Any child who is present at the time a violent offence is committed should be treated in a sensitive manner. Police should be aware that witnessing violence in the family has a proven traumatic effect on children.

11a. The police officer should always consider referring the victim and her child(ren) to available community services, or to the Ministry of Social Services for services through a support services agreement, to assist the child(ren) in dealing with the impact of witnessing the violence. The officer should bear in mind that the suspect, in order to control or intimidate the victim, may have threatened her with removal of her child(ren) by the Ministry of Social Services or others.

11b. Where it appears that a criminal offence related to child abuse or neglect has been committed, the police officer should thoroughly investigate the potential for charges.

11c. Where a police officer has reasonable grounds to believe that a child's health or safety is in immediate danger and there are no other means available to ensure the child's health or safety, the officer may "take charge" of

the child under section 27 of the Child, Family and Community Service Act. The police officer does not need parental consent to take charge of a child. Upon taking charge of a child, the officer must immediately notify a Ministry of Social Services child protection social worker or a First Nations child protection social worker with the appropriate delegated authority. The child protection social worker will speak with the parent and the child if possible, and make arrangement with the police to ensure that the child is safe. This may include returning the child to the victim parent at a place of safety, taking the child to a safe place identified by the victim parent (such as the home of a relative or family friend), or taking the child to another place of safety.

11d. Where a child is not in immediate danger but the police officer believes that the child has been harmed or is at risk of harm, the officer must promptly make a report to a Ministry of Social Services child protection social worker or a First Nations child protection social worker with the appropriate delegated authority. This includes situations where a child: has been or is likely to be physically harmed, including physical harm resulting from neglect; has been or is likely to be sexually abused or exploited; or is displaying behaviours that indicate severe emotional harm. Where there is any doubt about whether a report should be made, police should consult with a child protection social worker. Once a report has been made, the child protection social worker assesses the information provided by the police and may meet with the parent and child to obtain further information before offering support services to the parent and child or initiating an investigation into the child's need for protection.

12. The victim, child witnesses or family members should not be interviewed in the presence of the suspect.

13. Immediate police response to reports of breaches of bail and probation are essential because of the often volatile and dangerous nature of violence committed against women in relationships. Studies show that risk to women is highest just before, during and immediately after separation. Breaches of bail and probation should be treated as crimes in progress as a known violent offender may be confronting the victim. Police should also consider use of the Criminal Code section that allows a peace officer to arrest an accused whom he/she reasonably believes is about to contravene a summons, appearance notice, promise to appear, undertaking, or recognizance, (s.524, 1992 Criminal Code). An occurrence report, including the grounds for arrest, should be provided to Crown counsel for a bail hearing.

14. When charges are unlikely, but a complainant, on reasonable grounds, fears injury to herself or children, or damage to property, police should apply to court on her behalf to have the individual placed on a recognizance under s.810 of the Criminal Code.

14a. The police should inform the complainant that the police must still complete a Report to Crown Counsel and they will do so immediately. The police are now empowered to, and should, swear the information on the complainant's behalf.

15. In recognizance applications (peace bonds) under s.810, where the danger to the complainant is immediate but grounds for charges do not exist, a warrant should be sought.

16. In cases where Crown counsel have sought a material witness warrant for a victim who failed to attend court to testify, the police will make every effort to have the investigating officer who is familiar with the case execute the warrant.

E. Services to Victims

1. Police are dedicated to providing necessary assistance to the victims of violence and being responsive to their needs. When requested, the police will stand by to keep the peace in the event either party wishes to return to the residence to collect personal effects.

2. The attending police officer will inform the victim of available community services for herself and her child(ren), both verbally and with a handout card or pamphlet, and with her permission, refer her case to the appropriate agency.

3. The police officer will assist the victim and her child(ren) by arranging safe transportation to a transition home or other safe shelter, when requested. Where resources exist, crisis teams involving social services professionals should be relied upon for support.

4. The police officer will inform the victim of any community-based specialized victim services (including woman assault centres), and will refer her case with her permission. Where a specialized program does not exist, permission to refer her case to a police or Crown-based victim service should be sought. Where no community-, Crown- or police-based victim services are available within the community, the police service of that jurisdiction will be responsible for providing victim assistance directly wherever possible.

5. The victim should be informed that a victim support worker or advocate, if available, may be present for the police interview of the victim, if she so wishes.

6. If a victim will not testify unless she is accompanied to court by a police officer, because the accused poses a danger to her, such arrangement should be made wherever possible.

F. Services to Special Needs Victims

1. The police may be the only chance for effective intervention in cases where the couple is elderly and abuse has been long-term, or where cultural, religious, community or family values, sexual orientation or disability (physical or mental), make seeking assistance to stop the violence difficult or impossible. In such situations, respectful and dignified treatment of the victims and an understanding of the dynamics of violence against women in relationships is especially critical.

   Police must be sensitive and accommodating when dealing with victims/witnesses who have special needs by virtue of isolation, mobility restrictions, language or communication abilities. It may be necessary to alter investigative procedures for victims with special needs.

2. Support persons for a victim/witness should be permitted to be present during interviews, whether or not an interpreter is also present.

3. The accused or young children should never be used as interpreters, and the name of the interpreter utilized as well as the relationship to the parties, if any, should be recorded on the file.

4. Police must clearly indicate on the RCC witness pages that the victim has special needs because of mental or physical disability, or by virtue of age, religion or cultural values. If no victim or support service is available to meet the victim's needs, that information should be communicated to Crown counsel.

G. Monitoring

1. As violence against women in relationships involves recurring offences, it is important that the details of all calls to a police service be recorded, whether or not an immediate police response is required. All "spouse assault" complaints should also be coded in such a manner that case trends and dispositions are retrievable.

2. The execution of warrants should be expedited in cases of violence against women in relationships, as in all crimes (violence where the complainant is at further risk.

Implementation details. In 1995, the ministry appointed a committee composed of members of the criminal justice system to recommend updates to the policy. Revisions and clarification were based not only on the experiences of officials in the various components of the justice system and other government agencies, but also on feedback from the community, in particular, from victims. Updates were also required to respond to amendments to legislation, such as the amendments to the Criminal Code of Canada which were passed in April of 1995, and provide police with the power to release suspected offenders on bail terms restricting certain conduct, including the authority to prohibit contact with the victim.

Resource person or organization to contact for further information

Province of British Columbia
Ministry of Attorney General
Community Justice Branch
Victim Services Division
302-815 Hornby Street
Vancouver, British Columbia, V6Z 2E6
Tel: 604-660-2527
Fax: 604-660-5340

Selected sources

1. Ministry of Attorney General Gender Equality Initiative Towards Justice for Women Annual Status Report (British Columbia, Canada: 1995)

3. MANDATORY ARREST POLICIES IN THE UNITED STATES: A REVIEW AND CRITIQUE OF THE MINNEAPOLIS DOMESTIC VIOLENCE POLICE EXPERIMENT (UNITED STATES OF AMERICA)

Many states in the United States have introduced mandatory arrest policies whereby the discretion of the police to arrest is guided and by such policies. The Minneapolis Domestic Violence Police Experiment which was set up to test the deterrent effect on domestic violence of arrest and other police response. This experiment held that mandatory arrest policies are ineffective. The following extract describes a number of reviews and critiques of that experiment and taken from National Institute of Justice and the American Bar Association Research Report: Legal Interventions in Family Violence: Research Findings and Policy Implications (cited below).

Synopsis

Description. (Schmidt and Sherman) The original Minneapolis study and replication studies as controlled experiments assigned domestic violence misdemeanour cases one of several possible responses. In Minneapolis and most of the replication studies, the assignment was random (an exception was Metro-Dade where the police had discretion whether to arrest or not); the efficacy of each treatment was measured by interviews with victims and official records. The research undertaken in the six cities revealed: arrests reduced violence by some abusers (e.g., employed abusers; those whose victims were white and Hispanic) and increased it for others (e.g., unemployed abusers, those whose victims were black); arrests may reduce domestic violence in the short run, but may increase it in the long run; none of the innovative treatments--namely, counselling or protective orders--produced any improvement over arrest versus no arrest; citations to appear in court caused more violence than arrests; and offenders who had left the scene before the police arrived and against whom warrants were issued were responsible for less repeat violence than absent offenders against whom warrants were not issued. The implications for legislators and law enforcement included the recommendation that legislators should repeal mandatory arrest laws and authorize structured police discretion; legislators should allow police to make warrantless arrests; police should serve warrants on absent offenders; special units and policies should focus on chronically violent individuals.

(Zorza) She concludes that there were fundamental design flaws in the studies, which included: ignoring the fact that domestic violence, unchecked, usually escalates in frequency and severity; failing to take into account the impact of post arrest decisions by prosecutors and courts; instructing the police to discourage future police contacts by the victim; including self-defense cases that have lesser deterrent possibilities. The policy value of the studies is limited since they: were limited to misdemeanours; did not address the effect of non arrest; isolated the initial police response from other possible responses to domestic abuse and studied only one of potentially dozens of issues that could have been studied; ignored nondeterrence benefits of arrest, including immediate safety for the victim, access to services, and conveying a message that domestic violence is a crime. In the short term, mandatory arrest results in lower rates of recidivism than non-arrest police responses. It is likely, therefore, that later escalation is motivated by something other than anger or retaliation for arrest. Arrest without more follow-through by the criminal justice system may be too weak a sanction to deter many batterers. She suggests that with probable cause, police should: arrest all abusers not acting in self-defense; issue an arrest warrant even if the offender is absent; the length of time an arrested abuser is held should be no shorter than that of other offenders.

(Stark) He finds that many offenders respond to sanctions against physical abuse by isolating, intimidating, and controlling their partners. Therefore, mandatory arrest policies are best assessed by their overall effect on the victim's subordination rather than by the incidence of violence alone. He concludes that proarrest strategy should be thought or as a "package of goods" that may include everything from a mere warning, handcuffing, or an arrest warrant through a weekend in jail, mandated treatment, a stalker's law, community intervention programs, the provision of court-based advocates, and real prison time. There are reasons beyond deterrence for mandatory arrest policy. These include: providing a standard against which to judge variation in police response; providing immediate protection from current violence and giving victims time to consider their options; reducing the overall incidence of

domestic violence both directly (because arrest might deter recidivism), and by sending a clear message that battering is unacceptable; acknowledging a special social interest in redressing the legacy of discriminatory treatment of women by law enforcement; serving a "redistributive" function by acknowledging that police service is a resource previously not available to women on an egalitarian basis; providing victims access to services and protection that would not be available outside the criminal justice system.

(Buzawa and Austin) Their research was to determine when and if victim preferences affect the decision to arrest domestic violence offenders and to determine victim satisfaction with police response. The research was conducted in four precincts within the Detroit Police Department. Officers were instructed to complete Supplemental Arrest Reports in domestic assault cases to provide background information on the victim and offender, characteristics of the incident, seriousness of injury to the victim, the victim's preferred response, and the actual police response. The researchers analyzed 165 reports. In addition, 110 victims were randomly selected for in-person interviews. The findings had the following implications for law enforcement: with regard to victim preferences, it is recommended that police officers: weigh more heavily the desires of victims about arresting (or not arresting) the of-fender. As a way to accomplish this, police reports could include victim preferences and if the officer disagreed with the victim preferences, he or she should state why. Increase their understanding of the dynamics of domestic violence cases through training; this is critical as this is correlated with officers taking victims' preferences seriously.

Selected sources

1. National Institute of Justice and the American Bar Association Research Report: Legal Interventions in Family Violence: Research Findings and Policy Implications (U.S. Department of Justice: 1998)

2. Schmidt, Janell and Lawrence Sherman “Does Arrest Deter Domestic Violence?” from Do Arrests and Restraining Orders Work?, edited by Eve S. Buzawa and Carl G. Buzawa, Sage Publications, 1996.

3. Zorza, Joan “Must We Stop Arresting Batterers?: Analysis and Policy Implications of New Police Domestic Violence Studies” from New England Law Review, 28 (Summer 1994) 929.

4. Stark, Evan “Mandatory Arrest of Batterers: A Reply to Its Critics” from Do Arrests and Restraining Orders Work? edited by Eve S. Buzawa and Carl G. Buzawa (Sage Publications: 1996)

5. Buzawa, Eve and Thomas Austin “Determining Police Response to Domestic Violence Victims” from American Behavioral Scientist, 36 (5) (May 1993) 610.

4. POLICY ON THE RESPONSIBILITIES OF POLICE OFFICERS IN SPOUSAL ASSAULT CASES - DEPARTMENT OF JUSTICE CANADA, CROWN COUNSEL POLICY MANUAL 1993 PART V, CHAPTER 7 ON SPOUSAL ASSAULT (CANADA)

In December 1983, the Attorney General and the Solicitor General of Canada issued companion policies on the investigation and prosecution of spousal violence. The policies sought to ensure that police investigators and Crown counsel would give priority to cases involving spousal violence. Revised in 1993, Part A describes the directive given to Royal Canadian Mounted Police (RCMP) investigators. This extract below is taken from Chapter 7 on spousal assault of the Department of Justice Crown Counsel Policy Manual, 1993.

Synopsis

Text. (A) *Responsibilities of Peace Officers*
(i) *Investigation and Arrest*
All complaints of domestic violence involving spousal assault should be investigated immediately and thoroughly, with the intention of charges being laid for court prosecution, irrespective of whether the assaulted spouse wishes to proceed with charges. An early objective of the investigation should be the protection of and assistance to victims.

Police officers should be familiar with and acquaint all victims with community resources such as emergency shelters, legal aid, counselling facilities and welfare services, and assist them in contacting these resources.

Where investigation reveals reasonable and probable grounds to believe a serious indictable offence has been committed as part of a domestic dispute, the investigating officer shall arrest the suspect *unless,* as set out in paragraph 450(2)(d) [now paragraph 495(2)(d)] of the *Criminal Code,* he has reasonable grounds to believe that the public interest, having regard to all the circumstances, including the need to establish the identity of the suspect, secure and preserve evidence, or prevent the continuation or repetition of the offence, may be satisfied without so arresting the suspect.

Those charges most likely to arise in this context are:

- assault (s. 245) [now s. 266],
- assault with a weapon or causing bodily harm (s. 245.1) [now s. 267(1)],
- aggravated assault (s. 245.2) [now s. 268],
- sexual assault (s. 246.1,246.2, 246.3) [now s. 271,272 and 273],
- weapons offences (s. 83-89) [now s. 85-91].

If an arrest is thought necessary, the suspect shall be held in custody pending completion of the investigation and a determination of the appropriate terms of release, subject to the requirement under section 454 [now section 503] of the *Criminal Code* to take the suspect before a justice within twenty-four hours.

(ii) *Swearing of Charges*
Where an investigation supports the conclusion that a spousal assault has been committed, charges should be laid by the investigating officer, the victim served with a subpoena for the earliest possible trial date, a complete brief supplied to the Crown Attorney and the case set to. the earliest convenient court docket for appearance. This directive should be considered mandatory and completed irrespective of the wishes of the victim.

(iii) *Judicial Interim Release*
During the investigation, the investigating officer should consider what terms would be appropriate in an order for judicial interim release, to protect the victim, for example, an order to abstain from communication of the victim under section 457(4)(d) [now paragraph 515(4)(d)] of the Code. Where no terms are considered necessary, and an arrest has been made, the investigating officer should take the accused before a justice of the peace for release pursuant to sections 454 and 457 [now sections 503 and 515] of the Code. Where conditions are considered necessary, or release is to be opposed, a bail report shall be prepared for the Crown Attorney, the accused brought before a justice under section 454 [now section 515] of the Code within twenty-four hours, and remanded for a bail hearing under section 457(1) [now section 515] of the Code. *A copy of the interim release terms shall be provided to the victim where there are provisions contained therein for his or her protection.* Where the victim has gone to another community, the nearest police detachment shall be informed of the release order and the conditions therein for the protection of the victim.

Any breach of the bail terms should be followed by arrest as provided by section 458(2) [now subsection 524(2)] of the Code and a further bail review under section 458(3) and (4) [now section 524] of the *Code.*

(iv) *Peace Bonds*
The use of the peace bond procedure set out in section 745 and 746 [now sections 810 and 811] of the *Criminal Code* should *not* be pursued as an alternative or recommended in cases of spousal assault.

5. GOVERNMENT GRANTS TO ENCOURAGE ARREST POLICIES: THE U.S. DEPARTMENT OF JUSTICE VIOLENCE AGAINST WOMEN GRANTS OFFICE (UNITED STATES OF AMERICA)

The U.S. Department of Justice, Violence Against Women Grants Office has a program called “The Grants to Encourage Arrest Policies”. This program encourage jurisdictions to implement mandatory or pro-arrest policies as an effective intervention that is part of a coordinated community response to domestic violence. The program assumes that the arrest of a batterer will leverage the coercive and persuasive power of the criminal justice system to ensure victim safety and manage the behaviour of abusive, violent offenders. The following description of this program is from a Program Brief put out by the Violence Against Women Grants Office.

Synopsis

Description. Arrest, accompanied by a thorough investigation and meaningful sanctions, demonstrates to the offender that he has committed a serious crime and communicates to the victim that she does not have to endure the offender's abuse. Arrest must be followed by immediate arraignment and a thorough investigation. Orders of protection and conditions of release must be proactively monitored. Cases must be vigorously prosecuted. Designated dockets must be created to enhance the management of offender behaviour and expedite the scheduling of trials. The violent behaviour of domestic violence offenders must be managed through frequent judicial monitoring and appropriate sanctions. Probation and parole agencies must develop strategies--in collaboration with local law enforcement--for monitoring offenders and strictly ensuring that the terms and conditions of probation or parole are met.

At each juncture in the criminal justice process, the actions of all partners in the system should be guided by concerns for victim safety. Mechanisms should be put in place to allow the voices and experiences of women who are victims of domestic violence, particularly those who have sought assistance from the criminal justice system, to inform the development of policies, protocols, procedures, and programs. These mechanisms should ensure that the diverse experiences of abused women are considered--particularly the experiences of women of colour, immigrant women, the elderly, the disabled and women from other traditionally underserved parts of the community.

Criminal justice agencies must collaborate among themselves and in formal partnership with victim advocates from non-profit, nongovernmental domestic violence programs, including local shelters, advocacy organizations and domestic violence coalitions to ensure that victim safety is of paramount consideration in the development of any strategy to address domestic violence.

Grants to Encourage Arrest Policies challenge victim advocates, police officers, pre-trial service personnel, prosecutors, judges and other court personnel, probation and parole officers, and community members to work together to craft solutions to overcome domestic violence,

SCOPE OF THE PROGRAM
Ensuring victim safety and offender accountability are the guiding principles underlying the Grants to Encourage Arrest Policies. The scope of the Grants to Encourage Arrest Policies Program includes the statutory program purposes and the special interest categories outlined below. Proposed projects need not address multiple program purposes or special interest categories to receive support.

Program Purposes
The Violence Against Women Act directs that Grants to Encourage Arrest Policies be used to:

- Implement mandatory arrest or pro-arrest programs and policies in police departments, including mandatory arrest programs or pro-arrest programs and policies for protection order violations;
- Develop policies and training programs in police departments and other criminal justice agencies to improve tracking of cases involving domestic violence;
- Centralize and coordinate police enforcement, prosecution, probation, parole or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, probation and parole officers or judges;
- Coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts;
- Strengthen legal advocacy service programs for victims of domestic violence by providing complete information and support for a victim of domestic violence as the case against her abuser moves through the criminal justice system: and
- Educate judges and others responsible for handling of domestic violence cases, in criminal, tribal, and other courts about domestic violence to ensure victim safety and offender accountability through proactive judicial management.

SPECIAL INTEREST CATEGORIES
The Office of Justice Programs (OJP) is interested in funding States, Indian tribal governments, and units of local government that have implemented--or plan to implement--promising approaches that respond to domestic violence as a serious violation of criminal law. Although applications that address any of the statutory program purposes outlined above are eligible for funding, OJP is especially interested in supporting new projects or the expansion of current arrest grant activities that also address a Special Interest Category. All applicants are required to collaborate with non-profit, non-governmental domestic violence programs in the development of applications and in the implementation of local projects.

The following list of special interest categories does not imply any ordering of priorities among categories.

- Enforcement of protection orders and implementation of the full faith and credit provision of the Violence Against Women Act.
- Domestic violence courts that employ frequent and proactive judicial monitoring, sanctions and intensive supervision to manage offender behaviour and ensure victim safety.
- Community-driven initiatives to address violence against women among diverse, traditionally underserved populations.
- Partnerships between the business community and the criminal justice system to enhance the safety of women in the community.
- Community policing to reduce and prevent violence against women.
- Initiatives within police departments to address the problem of police officers who are perpetrators of domestic violence.
- Collaboration among advocates working with victims of domestic violence, domestic violence programs, child protection service agencies and criminal justice agencies to provide support and resources to battered women and their children.
- Development and implementation of coordinated initiatives to address incidents of stalking occurring in a domestic violence context.

ELIGIBILITY FOR AWARDS

Eligible grantees for this Program are States, Indian tribal governments, and units of local government.
For the purposes of this Program, a unit of local government is any city, county, township, town, borough, parish, village, or other general-purpose political sub-division of a State; an Indian tribe that performs law enforcement functions as determined by the Secretary of the Interior; or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and the Trust Territory of the Pacific Islands. By statute, police departments; pre-trial service agencies; district or city attorneys' offices; sheriffs' departments; courts; probation and parole departments; shelters; non-profit, non-governmental victim service agencies, and universities are not units of local government for the purposes of this grant program. These agencies or organizations may administer grant funds and assume responsibility for the development and implementation of the project, but they must apply through a State, Indian tribal government or a unit of local government.

To be eligible to receive funding through this Program, applicants must:

(1) certify that their laws or official policies encourage or mandate arrests of domestic violence offenders based on probable cause that an offense has been committed. These laws and official policies must also encourage or mandate arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

(2) demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

(3) certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense; and

(4) certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanour or felony domestic violence offense, that the abused person bear the costs associated with filing criminal charges or the service of such charges on an abuser, or that the abused person bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

Resource person or organization to contact for further information

For more information about this Grant Program, please contact:
Violence Against Women Grants Office
Office of Justice Programs
810 Seventh Street, NW
Washington, D.C. 20531
Telephone: (202) 307-6026
Fax: (202) 305-2589

http://www.ojp.usdoj.gov/vawgo

Selected sources

1. U.S. Department of Justice: Office of Justice Programs. Grants to Encourage Arrest Policies. Washington, D.C.

II. Criminal Procedure

(B) PROSECUTORIAL POWER

Section 7(b) of the Model Strategies urges Member States to ensure that prosecutors must take the primary responsibility for initiating prosecutions, and not the women subjected to violence

Examples of Promising Practices Relating to Prosecutorial Power:

1. PROSECUTORIAL POLICY ON DOMESTIC VIOLENCE: THE POLICY IN THE NORTHERN TERRITORY (AUSTRALIA)

2. EVALUATION OF ALTERNATIVE PROSECUTORIAL POLICIES - THE INDIANAPOLIS DOMESTIC VIOLENCE PROSECUTION EXPERIMENT (UNITED STATES OF AMERICA)

3. APPROACHES IN PROSECUTING DOMESTIC VIOLENCE CASES WITH RELUCTANT VICTIMS - THE MILWAUKEE APPROACHES (UNITED STATES OF AMERICA)

4. GOVERNMENT DIRECTED PROSECUTORIAL POLICY - DEPARTMENT OF JUSTICE CANADA, CROWN COUNSEL POLICY MANUAL 1993 PART V, CHAPTER 7 ON SPOUSAL ASSAULT (CANADA)

5. SPECIALISED FAMILY VIOLENCE COURTS WITH SPECIALISED PROSECUTORS - WINNIPEG FAMILY VIOLENCE COURT, MANITOBA (CANADA)

6. GUIDELINES FOR PROSECUTORS IN SEXUAL OFFENCE CASES -NATIONAL POLICY GUIDELINES FOR VICTIMS OF SEXUAL OFFENCE: NATIONAL GUIDELINES FOR PROSECUTORS IN SEXUAL OFFENCE CASES (SOUTH AFRICA)

7. GOVERNMENT POLICIES RELATING TO PROSECUTORIAL POWERS - THE BRITISH COLUMBIA VIOLENCE AGAINST WOMEN IN RELATIONSHIP POLICY (CANADA)

8. VICTIM FRIENDLY COURT (ZIMBABWE) - *TO BE ADDED*

1. PROSECUTORIAL POLICY ON DOMESTIC VIOLENCE: THE POLICY IN THE NORTHERN TERRITORY (AUSTRALIA)

The Northern Territory, Australia established in 1994 Domestic Violence Units (DVUs) while at the same time adopted a new General Order on Domestic Violence which adopted a “no drop” policy with respect to domestic violence-related prosecutions. The following description of this General Order is taken from van de Werken, Tiffany “Domestic Violence - Policing the “new crime” in the Northern Territory” located on the Australian Institute of Criminology website www.aic.gov.au.

Synopsis

Description. Prior to 1994, in the Northern Territory, it was previously the case that even if a victim did request that charges be laid, they would often subsequently be withdrawn at the request of the victim. The General Order on Domestic Violence adopts a "no drop" policy such that a domestic violence-related prosecution was proceeded with regardless of the victim's circumstances existed. Further, in order to minimise the trauma to victims of domestic violence, attempts were made where possible to "fast-track" domestic violence prosecutions; however, clearly this

depends heavily upon cooperation from the Courts in terms of setting hearing dates and the defendant's rights being met.

The Domestic Violence Unit (DVU) monitors all domestic violence-related prosecutions through the Integrated Justice Information System (IJIS), and in particular monitors prosecutorial discretion with regard to the withdrawal of complaints. The DVU also keeps the victim and the investigating officers informed as to the progress of complaints and of the case.

Selected sources

1. van de Werken, Tiffany “Domestic Violence - Policing the “new crime” in the Northern Territory” located on the Australian Institute of Criminology website www.aic.gov.au.

2. EVALUATION OF ALTERNATIVE PROSECUTORIAL POLICIES - THE INDIANAPOLIS DOMESTIC VIOLENCE PROSECUTION EXPERIMENT (UNITED STATES OF AMERICA)

The Indianapolis Domestic Violence Prosecution Experiment was conducted in the early 1990s to examine the effectiveness of alternative prosecutorial policies in reducing renewed violence by misdemeanour battery defendants against their partners. The following extract describing the findings of this experiment are taken from “The Indianapolis Domestic Violence Prosecution Experiment” By David Ford and Mary Jean Regoli (cited below).

Synopsis

Description. The research consisted of two randomized experiments. One involved on-scene arrests (OSAs) of 198 suspects by police responding to violent domestic disturbances, and the other involved 480 suspects who were the subject of victim complaints (VCs) filed in person with the prosecutor's office. OSA cases could not be dropped by the victims, and were randomly assigned to one of three prosecutorial policy tracks: (1) pre-trial diversion involving rehabilitative counselling; (2) adjudicated guilt with counselling as a condition of probation; and (3) other sentencing such as fines, probation, and jail time. VC cases had a fourth randomized policy track whereby victims were allowed to drop charges; in addition, the defendants in VC cases were randomly assigned to be brought to court through either a warrant or a summons. Accordingly, there were eight combinations for VC cases compared to three for OSA cases. Six months after court settlement, victims and accused offenders were interviewed and official records examined to determine whether any of the alternative criminal justice policies had influenced the prevalence, severity, and frequency of subsequent violence.

The study revealed:

- Domestic violence victims were considerably more likely to have been battered in the 6 months before their cases were brought to the prosecutor than in the 6 months following settlement (more than 70 percent before vs. fewer than 40 percent after).
- Battering did not necessarily stop between the time accused batterers were arrested or summoned to court and the time their cases were settled. Approximately 20 percent of defendants arrested on the scene or as a result of warrants issued in response to formal victim complaints rebancred their victims before case settlement, as did 27 percent of defendants summoned to court following formal victim complaints.
- Regardless of particular prosecutorial policies pursued and methods of bringing defendants to court, there was considerable rebattering in the 6 months following case settlement. However, in victim-initiated cases, the manner whereby defendants were brought to court and the specific prosecutorial policies followed significantly affected the extent of rebattering.
- When victims were allowed to drop complaints they had filed (whether resulting in warrant or summons), those who elected to go forth with the prosecution were significantly less likely to be rebattered than those who did not. Those who dropped charges after the batterer was summoned to court were in greatest jeopardy of renewed violence.
- Regardless of the prosecutorial track pursued, desired court outcomes resulted more frequently when cases were initiated by victim complaints (67 percent of the cases) than when they were initiated by on-scene arrests (58 percent).
- The lowest rates of follow-up violence were associated with findings of "not guilty." Other court outcomes did not significantly affect the prevalence of follow-up violence.

- Regardless of whether cases were initiated by on-scene arrests or by victim complaints and regardless of the prosecutorial track taken, most victims reported feeling more secure and in control 6 months after their cases were settled than they did before prosecutorial action was taken.

Implementation details. Lessons learned from this research are the following:

- Prosecutors can help victims minimize the chance of violence by affirming the legitimacy of their criminal complaints and by respecting their decisions about what is best under their unique circumstances, even if contrary to the prosecutor's administrative concerns.
- Since victims are frequently battered between the time a defendant is arrested or a complaint is filed and the time the case is settled, prosecutors can support and hopefully protect victims by attending to their' interests throughout the prosecution process, for example, by monitoring warrants to see they are served in a timely manner; by requesting protection orders and seeing that they are aggressively enforced; by watching for evidence of obstruction of justice in defense attorneys' contacts with victims; and by making every effort to account for a victim's safety.
- Prosecutors should review their own prosecution policies in terms of their effectiveness in reducing follow-up violence.
- Prosecutors who allow victims to drop their complaints should explain to them that dropping the charges might entail increased risk of violence.

Evaluation. As noted above.

Resource person or organization to contact for further information

For more information on this type of research please contact:
U.S. Department of Justice Office of Justice Programs
National Institute of Justice
Washington, DC 20531

Selected sources

1. Ford, David and Mary Jean Regoli “The Indianapolis Domestic Violence Prosecution Experiment” from a Final Report submitted to the National Institute of Justice, October 1993, NCJ 157870. Research was conducted under NIJ grant #86-IJ-CX-O012 by David A. Ford, Department of Sociology. Indiana University at Indianapolis and University Research Associates, and by Mary Jean Regoli, Indiana University at Bloomington.

3. APPROACHES IN PROSECUTING DOMESTIC VIOLENCE CASES WITH RELUCTANT VICTIMS - THE MILWAUKEE APPROACHES (UNITED STATES OF AMERICA)

Two domestic violence projects were implemented in Milwaukee, Wisconsin to examine differing approaches dealing with prosecuting domestic violence cases with reluctant victims. The first examined the effectiveness of a specialized domestic violence court designed to speed up case processing time. The second examined the effect of a subsequent change in the district attorney's screening policy that admitted more cases into the special court. In the Research Report put out by the National Institute of Justice and the American Bar Association “Legal Interventions in Family Violence: Research Findings and Policy Implications” (cited below), evaluations were done on these approaches and the following extract describes the findings and implications of such findings.

Synopsis

Description. In 1994 and 1995, two domestic violence projects were commenced in Milwaukee with on-going evaluations. Data were collected from three periods: prior to September 1994 (the start of the special domestic violence court), between September 1994 and January 1995 (the period after the special court began and before the change in the district attorney's charging policy), and after January 1995 (after the change in the district attorney's charging policy). Data were collected from prosecutors' files, police reports of new arrests for offenders, and via interviews with victims.

Findings
After the creation of the specialized court: processing time was halved; convictions were up by 25 percent; pre-trial crime declined; and the prevalence of new felony arrests showed a slight but statistically non-significant reduction.

The researchers concluded:

- The study produced evidence that the theory on which the domestic violence court was based was sound. Reducing processing time produced concomitant changes in convictions and opportunities for pre-trial crime.
- What was accomplished in the Milwaukee domestic violence court was highly significant. It is one of the few documented successful attempts to address the problem of low convictions in domestic violence cases. It was done without coercion of victims (as is the case in jurisdictions that institute no-drop policies) and without additional resources.
- The district attorney's policy to prosecute a larger proportion of domestic violence arrests had several effects, none of them positive, which may have been due in part to insufficient allocation of resources. One effect of the new policy was to bring into the court system a larger proportion of cases with victims who were not interested in seeing the defendant prosecuted. Victim satisfaction with prosecutors and with court outcomes declined after the new screening policy. As the special court became overwhelmed with cases, case processing time increased back to the level that had existed prior to the start of the specialized court.

Implementation details. The researchers drew the following implications: shortening court processing time in domestic violence cases is a good idea. It has been shown to decrease pre-trial crime and increase conviction rates; introducing domestic violence cases with reluctant victims into the criminal justice system should be carefully considered. Potential benefits may result, but negative results were noted in the Milwaukee study; these types of cases were found to increase case processing time, increase pre-trial crime, decrease convictions, and decrease satisfaction with prosecutor handling and court outcome; should the decision be made to introduce cases with reluctant victims, sufficient resources should be allocated to adequately prosecute and adjudicate the cases. In Milwaukee, there was no increase in victim/witness, prosecutorial, or judicial staff to handle twice the number of cases the district attorney entered into the court system; and in deciding whether or not to prosecute, the victim's voice should be carefully considered. It may be justified to go counter to victims' wishes not to prosecute in select cases where there is a clear indication (e.g., by virtue of prior history and dangerousness of the defendant) that harm will come to victims if defendants are not prosecuted. However, to completely ignore victims' wishes is likely to produce a caseload with many unwinnable cases and disgruntled victims.

Evaluation. As noted above.

Resource person or organization to contact for further information
For more information on this type of research please contact:
U.S. Department of Justice Office of Justice Programs
National Institute of Justice
Washington, DC 20531

Selected sources
1. Davis, Robert and Barbara E. Smith, and Laura Nickles “Prosecuting Domestic Violence Cases With Reluctant Victims: Assessing Two Novel Approaches in Milwaukee” from a Final Report to the National Institute of Justice by the American Bar Association's Criminal Justice Section; funded by N1J grant #95-1J-CX-0105, April 1997, NCJ 169111.

4. GOVERNMENT DIRECTED PROSECUTORIAL POLICY - DEPARTMENT OF JUSTICE CANADA, CROWN COUNSEL POLICY MANUAL 1993 PART V, CHAPTER 7 ON SPOUSAL ASSAULT (CANADA)

In December 1983, the Attorney General and the Solicitor General of Canada issued companion policies on the investigation and prosecution of spousal violence. The policies sought to remove from victims the responsibility for initiating criminal charges and for Crown Counsel to give priority to cases involving spousal violence. The policy set out in this chapter refines and expands the 1983 policy. The policy also places primary responsibility for

decisions about spousal assault cases with Crown Counsel rather than with victims. Part B outlines the role and responsibility of Crown Counsel. This extract below is taken from Chapter 7 on spousal assault from the Department of Justice, Crown Counsel Policy Manual, 1993.

Synopsis
Text. (B) *Responsibilities of Crown Counsel*

(i) *Initial Responsibilities*
Where a prosecution brief alleging a spousal assault is received, Crown Counsel should:
- review the brief for completeness;
- ensure that the charge has been sworn by the investigating officer; and
- speak to the officer to decide which bail conditions (if any) will best protect the victim. Wherever reasonably possible, the views of the victim on the value of a "no contact" order should be sought before a submission is made to the court in support of such an order. Where warranted (for example, where the accused has a history of family violence), counsel should oppose release.

(ii) *Preparation of Witnesses*
After reviewing the prosecution brief with the investigating officer, Crown Counsel should, where possible, meet with the victim and:
- explain the spousal assault prosecution policy;
- explain the role of the Crown in such proceedings;
- explain the role of a witness in court;
- assess the victim's reliability as a witness;
- encourage the victim to testify to what occurred;
- tell the victim about any bail conditions imposed on the accused; and
- confirm that the victim has been made aware of available community services.

(iii) *Discontinuing Proceedings*
After reviewing the prosecution brief with the investigating officer and interviewing the victim, counsel may decide that the case is not appropriate for prosecution. In these circumstances, a stay of proceedings may be entered, or leave of the court may be sought to withdraw the charges, but only after the decision to terminate proceedings has been reviewed and approved by the Regional Director.

When deciding whether to terminate proceedings, counsel should consider the following factors:
- whether the accused has prior convictions for violent offences;
- the seriousness of the present assault;
- whether there is any evidence that the victim has been directly or indirectly threatened or intimidated by the accused in connection with the present prosecution;
- whether there is reliable evidence tending to suggest that the victim will be unduly traumatized if required to testify;
- whether there is sufficient evidence to prosecute without taking evidence from the victim;
- whether them is a likelihood of similar offences in the future; and
- the impact that not prosecuting may have on future cases and on the administration of justice generally.

A decision to terminate proceedings should be the exception, not the rule. It is made in the interest of the proper administration of justice, including the publics interest in the effective enforcement of the criminal law, and is not taken by or on behalf of the victim.

(iv) *Sentence*
If an accused is convicted, Crown Counsel shall recommend a sentence which, among other goals, reflects public denunciation of this kind of offence. Counsel should oppose recommendations for conditional or absolute discharges unless extraordinary and compelling circumstances are present. Where an inadequate sentence is imposed, an appeal should be brought promptly.

(v) *Reluctant Witnesses*
Spousal assault victims may be reluctant to testify for a number of extremely complex reasons. This type of offence involves emotional relationships that are usually not found in other types of crimes. Spouses who are reluctant to

testify require special consideration. Absent compelling circumstances, Crown Counsel should not doubly victimize spousal assault victims by prosecuting them for failing to testify.

A spouse who fails to attend court in answer to a subpoena or who, once sworn, refuses to answer questions, may be in contempt of court or may otherwise be subject to criminal sanctions. The judge may, in these circumstances, call on the spouse to answer for contempt. Crown Counsel should not move to cite the victim for contempt circumstances and in accordance with the principles outlined below except in compelling circumstances and in accordance with the principles outlined below.

If evidence is insufficient to prove a case without the spouse's testimony, the circumstances of the offence will dictate Crown Counsel's actions. The more serious the offence, the more appropriate it will be to take all reasonable steps to compel testimony, including use of the adverse witness procedures outlined in section 9 of the *Canada Evidence Act.*

Crown Counsel should not commence criminal proceedings (for example, for public mischief or contempt of court) against a victim who fails to testify without the prior approval of the Regional Director, who should, absent exigent circumstances, consult with the Assistant Deputy Attorney General (Criminal Law) before charges are laid.

In some circumstances, Crown Counsel may have no alternative but to ask the court to issue a bench warrant for a victim who has failed to attend in answer to a subpoena. However, counsel should first encourage the attendance of the victim without resort to the warrant. If an arrest is required, Crown Counsel should consult with the police to determine if detention of the victim is necessary. Only in exceptional and compelling circumstances should the victim be detained in custody. In most instances, the victim may be released on terms requiring attendance in court to answer for the alleged contempt. Where a victim is detained in custody, Crown Counsel should advise the Assistant Deputy Attorney General (Criminal Law) as soon as possible.

Crown Counsel should make every effort to encourage reluctant victims to testify, including putting them on the witness stand. If the charge is provable through other evidence, Crown Counsel may decide to excuse the victim without the need to testify and without further sanction.

(vi) *Children as Witnesses*
Children of families where spousal assaults occur, including adult children, may be reluctant to testify because of their own relationship with both the accused ad the victim. Some of the considerations that Crown Counsel may take into account when dealing with reluctant victim witnesses may be applicable to children called as witnesses in these cases.

Resource person or organization to contact for further information
Department of Justice Canada
Criminal and Social Policy Sector
284 Wellington Street
Ottawa, Ontario
K1A 0H8

Selected sources
1. Department of Justice, Crown Counsel Policy Manual (Department of Justice: 1993)

5. SPECIALISED FAMILY VIOLENCE COURTS WITH SPECIALISED PROSECUTORS - WINNIPEG FAMILY VIOLENCE COURT, MANITOBA (CANADA)

In 1990, the Family Violence Court was opened in Winnipeg, Manitoba with the intention of creating a court staffed with specialised personnel who would be sensitive to the difficulties arising where the victim-witness is dependent upon the accused. The following description of this court is taken from a report prepared by Judith Milliken entitled “Report of Findings Arising From Tour of Winnipeg Family Violence Court.

Synopsis

Description. The Family Violence Court exists only at the provincial court level. There is no specialized court at the superior court level. Cases committed for trial following preliminary hearings in Family Violence Court are set down for hearing with other criminal cases in the Court of Queen's Bench.

The intent was to create a court staffed with specialized personnel who would be sensitive to the difficulties arising where the victim-witness is dependant upon the accused. The goals were three-fold:

- To increase the victim-witness information and cooperation to reduce case attrition.
- To process cases expeditiously, aiming at a three month average disposition time.
- To provide more consistent and appropriate sentencing.

PERSONNEL

Personnel were recruited for the Family Violence Court on the basis of a demonstrated interest and expertise in the area, and exposure to specialized training in the field. The Director of Prosecutions for Winnipeg, in consultation with both the judiciary and the Implementation Committee, appointed the Senior Administrative Crown and assisted in the recruitment of Crown attorneys from existing staff. All five Crown attorneys are assigned on a full-time basis to that court. The Chief Judge approached colleagues with an identified interest and expertise in family violence who indicated a willingness to sit in the court from time to time. All have attended the Western Judicial Education Centre Program on Gender Equality as well as a number of provincial workshops dealing with the dynamics of domestic violence, aboriginal and immigrant issues. Only one of the judges presiding in Family Violence Court does so on a full time basis. The large majority sit part time in this court with the rest of their assignment being in other provincial courts.

COURT FACILITIES

The courtrooms used for Family Violence Court are designated courtrooms in the Provincial Court Criminal Division and are used for general purposes on other days. The design of the Winnipeg provincial courts is modern and very "user friendly" compared to traditional criminal courts. The layout permits close contact between the judge and other persons present. The design is less intimidating and witnesses face the judge rather than the accused or counsel. In addition there is ample space available in the courthouse for victim witness assistance facilities, the native court workers (called court communicators in Manitoba) and for interview rooms for counsel. The proximity of all services is essential. The Crown Counsel office, located in an adjoining building, is a short walk via an enclosed overhead passage way. A child witness advocate is located within the Crown office. The Women's Advocacy Centre, whose function is described hereafter, is located next door to the Crown office. Corrections officials, including Probation Officers and Bail Supervisors, are located in a separate office building some distance from the courthouse.

SUPPORT SERVICES

The Women's Advocacy Program was described as "the most integral and critical feature of the Family Violence Court". The focus of this program is primarily on the safety of the victim. The female staff of four consist of professional social workers and a lawyer who provide support, short-term counselling, information and referrals to women whose partners have been charged with wife assault. The Women's Advocacy Program (WAP) works almost exclusively on Family Violence Court cases. It was established in the Department of Community Services as a program within the Wife Abuse Services Branch and was later transferred to the Department of Justice once the Family Violence Court was introduced. WAP staff have full access to police and Crown files. (We were advised it is essential to ensure such a program is located within government in order to provide full access to confidential files and to establish the necessary trust and close working relationship required to make such a system effective). Women attending court who seek the assistance of an advocate, are referred to the WAP. Otherwise the Program contacts all female victims of spousal assault by mail to inform them of the service and provide information concerning the status of their partner's case. Approximately half of the women contacted respond with requests for further information. Women who communicate concerns about a case are interviewed by WAP staff. WAP discuss safety Strategies and provide information on available resources to assist a woman to help herself to be safer. In addition WAP will cover the concerns expressed by a woman which may involve the appropriate bail terms, sentencing terms or the issue of whether or not the prosecution should continue. With the consent of the woman, these concerns are forwarded to the Crown by way of internal memo. The Crown in Winnipeg will not consent to any bail variations in the absence of such a report. The WAP staff attend court with a woman upon request. Unfortunately however, there is insufficient staff to provide a worker to be routinely present in court at the time of bail hearings or remands. Therefore it is only when requested specifically that these advocates attend in court at this stage. This lack of early involvement was pointed out by legal staff lawyers as a clear shortcoming in the present

system. There is a separate child abuse court worker who is a social worker. She provides information on the courts and on the various services and supports available for child victims. Initially located within the Winnipeg police, this service was transferred to the Department of Justice in 1987 and is currently located within the Crown office. There is no separate service for elder abuse within the court system, however one of the five prosecutors is designated as the elder abuse prosecutor and accordingly sits on various liaison committees involving this issue.

PROSECUTORIAL POLICY

The Policy statement issued by the Manitoba Department of Justice reflects dual considerations of vigorous enforcement and sensitivity to the victim. This principle of sensitivity has a moderating effect on the vigorous enforcement policy. Apparently given continued public statements by politicians of the "Zero Tolerance" policy, police interpret this to mean charges shall be laid and Crown Counsel do not feel as comfortable in balancing sensitivity with enf6rcement goals. The written policy requires Crown attorneys to practise discretion and flexibility as well as tenacity in the prosecution of the case. These qualities were readily apparent in the Crown attorneys dealing with these matters both in and out of court.

CORRECTION SERVICES

In Corrections, specialized services have been developed to deal with assaultive partners. In addition, all correction officers have received basic training in the handling of these offenders. The treatment of assaultive men is apparently modelled on the Duluth and Minneapolis models. Corrections officials advised that group treatment is the treatment of choice. Because of the difficulty with resources, the only program widely available is a 24-hour motivational course. They are so short of staff that they have institutional correctional officers assisting with the running of such courses. No funding is presently available for longer term treatment.

One of the obvious difficulties with the present operation of the Winnipeg Family Violence Program is the corrections portion of the system. There has been a greatly increasing case load as a result of the Family Violence Court and unfortunately sufficient resources were not initially dedicated nor are they presently available to adequately fund corrections programs. Accordingly corrections staff are presently spread very thinly trying to meet treatment needs.

DEFENCE COUNSEL

Defence counsel in Manitoba include both staff legal aid lawyers and lawyers from private practice. Both types of defence counsel indicate they routinely advise their clients to plead not guilty and set the matter down for trial and wait to see if the complainant will appear and testify. Counsel further indicate that in the event the complainant appears on the trial date and is willing to testify, in the majority of cases their clients will plead guilty. This appears to be borne out by Dr. Ursel's research study of Year I of the court's operation. That study shows that of a sample 120 cases set for trial, 66% were resolved through guilty pleas. Defence counsel have great difficulty with the "Zero Tolerance Policy" and the lack of discretion exercised in the laying and proceeding with charges in court. As examples, they pointed to the extremely minor technical assaults proceeding through the courts and the counter charges laid against women. In many of these latter cases, the women were not eligible for legal aid because there was no probability of their incarceration in the event of conviction. Apart from these concerns, defence counsel largely felt that the Family Violence Court was of benefit and had succeeded in raising the priority of the issue in the public eye. In addition, they agree it has increased the work available for lawyers.

Implementation details. The Manitoba Provincial Department of Justice conducted a feasibility study and with the support from the provincial government and the Chief Judge, a Court Implementation Committee was struck in March 1990. The Court Implementation Committee, composed of key decision makers within the criminal justice system, includes the Chief Judge of Provincial Court, the Director of Prosecutions, the Senior Prosecutor of Family Violence Court, the Court Services Manager and members of related departments and branches representing a broader community interest. There was no involvement of defense counsel nor of the Manitoba equivalent of the Legal Service Society. (In retrospect the former Chief Judge agrees that consultation at least with defense counsel, would be preferable.)

The Committee undertook the following responsibilities:

- Implementation
- Community liaison
- Inter-governmental liaison
- Inter-jurisdictional liaison

Evaluation. RESEARCH COMPONENT
Dr. Jane Ursel, a sociologist at the University of Manitoba, is a key member of the Implementation Committee. She is the Director of a Court Research Project sponsored by the Federal Department of Justice to provide research on the operation of the court. The on-going research conducted under Dr. Ursel's direction is extremely helpful in analysing the effects of this specialized violence court. According to Dr. Ursel, a key tool in providing support for the court was the public opinion poll showing wide public support for this specialized court. This poll assisted the Family Violence Project in withstanding the inevitable criticism prompted by such a change. In Winnipeg, polls are conducted inexpensively by buying questions on an annual Winnipeg survey. A subsequent poll has again overwhelmingly endorsed the specialized court.

POSITIVE CHANGES EFFECTED BY WINNIPEG FAMILY VIOLENCE COURT
Many positive effects are recognized as arising from the establishment of this court.
1. If properly resourced, this court has the ability to greatly expedite these cases.
2. The public clearly recognizes now that wife assault is a crime.
3. Victims are aware that action will be taken if an offence is reported.
4. The reporting of wife assault has greatly increased.
5. The priority of family violence cases has been greatly raised.
6. All justice system officials are more educated, sensitive and respectful of the families appearing before them.
   - Crown is better educated to exercise appropriate discretion.
   - Defence counsel treat witnesses with more respect and less frequently make inappropriate submissions to the court.
   - According to Judge Ron Myers, "inappropriate judicial comments are less frequent" and "fewer complaints are received about provincial court judges making such comments".
7. A higher percentage of the matters proceed through to trial and sentencing. (Prior to this court, 53% of these cases proceeded to sentencing. In Year 1, this figure had increased to 64%.)
8. The rate of stays of proceedings diminishes (32% stay of proceeding rate pre-Family Violence Court versus 22% in Year 1).
9. There is increased consistency in the handling of these cases and the sentences imposed are more appropriate.
10. There is increased accountability for the offender.
   - Cases are more carefully tracked and it is more difficult for an accused to juggle trial dates or otherwise "get lost" in the system.
   - The history of the offender is more likely to be tracked and known to the court.
   - Breaches of protective conditions are more likely to be brought back before the court and dealt with appropriately.
11. There is increased co-ordination between all arms of the justice system resulting in greater responsiveness, flexibility and efficiency in dealing with any glitches in the system.
12. The court sets the standard throughout the province and has helped to educate judges at all levels of court as to appropriate handling of these cases.

MAJOR LESSONS LEARNED IN ORGANIZATION OF FAMILY VIOLENCE COURT
As discussed above, there are presently problems with the Winnipeg Family Violence Court, however those problems appear not to stem from the specialization but rather from the lack of discretion use in relation to the laying of charges and the pursuance of charges.

The great increases in charges together with the lack of available resources has combined to aggravate the problem. There are a number of general lessons to be taken from the successes and difficulties faced by this Project:
1. A high percentage of these cases result in guilty pleas if the victim is present and prepared to testify.
2. Expediting these cases is crucial. Early trial dates greatly reduce not only stress on the victims and the accused but on the entire judicial system.
3. Creation of a specialized court will raised the profile of these cases resulting in greater reporting and an increased case load.
4. Sufficient resources must be dedicated to deal with the increased case load.
5. It is essential to obtain and maintain the support of all parts of the justice system - lack of cooperation by any stakeholder will have a negative ripple effect throughout the system.
6. An In House Victim Advocacy Service is an integral and essential component of any Family Violence Court Project.

Resource person or organization to contact for further information

Family Violence Unit
Winnipeg Family Violence Court

Selected sources

1. Milliken, Judith Report of Findings Arising From Tour of Winnipeg Family Violence Court (prepared for Attorney General Committee on Violence Against Women and Children: 1994)

6. GUIDELINES FOR PROSECUTORS IN SEXUAL OFFENCE CASES - NATIONAL POLICY GUIDELINES FOR VICTIMS OF SEXUAL OFFENCE: NATIONAL GUIDELINES FOR PROSECUTORS IN SEXUAL OFFENCE CASES (SOUTH AFRICA)

The National Guidelines for Prosecutors in Sexual Offence Cases is part of a set of guidelines developed by the South African Task Team which includes guidelines to Health Care personnel, guidelines to social welfare agencies and appropriate NGO's and guidelines to correctional services. The Guidelines for Prosecutors recognize the arbitrary/haphazard approach to victims of sexual assault which leaves them with a sense of betrayal by the courts and a feeling of revictimization. They cover the following topics: specialist prosecutor; consultation with victim; consultation with accredited health care practitioner; consultation with police; special treatment of and assistance to victims and witnesses; proceedings in camera; proceedings with the use of intermediaries; bail; proceedings in court; sentencing; and appeal.

Synopsis.

Text of guidelines. NATIONAL GUIDELINES FOR PROSECUTORS IN SEXUAL OFFENCE CASES

1. General Introduction

The present arbitrary/haphazard approach to victims of sexual assault has proved to be ineffective and in most cases leaves the victim with a sense of betrayal by the courts (often referred to as "secondary victimization").

Victims of sexual assaults (especially women) are being perceived as revengeful, deceitful or dishonest and are often not treated with the necessary respect: thus the need for a protocol for the treatment and protection of victims and witnesses in the criminal process.

Victims and witnesses often do not feel part of the criminal process and yet they fulfil a valuable and important role: thus the need for making their roles more meaningful and to obtain the optimal co-operation from them.

With our new-found constitutionalism, there is a need for an approach which is under-scored by the constitutional value of equality, comprising the equal protection and treatment of victims in the area of criminal justice.

2. Specialist Prosecutor

A specialist prosecutor is the ideal person for this type of case. In offices where there is only one prosecutor, the burden will obviously fall on this person. However, in big offices prosecutors must be selected or should be identified to handle these matters. These prosecutors are expected to exhibit the necessary interest and sympathetic attitude which such cases require.

2.1 The principle is that the prosecutor who first handled the case should follow it through the trial stage until its conclusion. Changing prosecutors during the course of the trial must be avoided at all cost.

2.2 It is imperative that the prosecutor who takes the case to trial, ensures that the case docket has been fully investigated before the trial commences so that no unnecessary delays occur.

3. Consultation with Victim

The prosecutor must consult thoroughly with the victim before the trial commences. The prosecutor must ascertain what fears the victim has and attempt to allay these fears. It is often useful to familiarise the victim beforehand with

the court room itself and the interpreter, if applicable. All the court proceedings must be explained to the victims so that they can fully understand. The victims need to be treated with the utmost empathy and respect at all times.

4. Consultation with Accredited Health Care Practitioner
The prosecutor must also consult thoroughly with the accredited health care practitioner (AHCP) whenever medical evidence is available. The prosecutor must also ensure that she/he is familiar with all the medical terminology as well as the implication of findings of the district surgeon, so that they can properly lead the evidence of the district surgeon in a coherent manner.

5. Consultation with Police
Where possible the prosecutor must consult with the police who investigated the case, particularly those likely to be called as witnesses. Discussion to ensure that all necessary documents and exhibits are available will assist the smooth running of the case.

6. Special Treatment of and Assistance to Victims and Witnesses
All witnesses in sexual offence cases, as well as AHCPs, should be assisted without undue delay. The prosecutor must make all efforts to ensure an expeditious and fair procedure and avoid unnecessary delays. However, should it be unavoidable that a case cannot be finalised on a particular day, these witnesses must be informed timeously so that a new date and time can be arranged. These cases should be finalised as soon as possible.

6.1 The victims of sexual offences should not be exposed to the accused, his family or his friends outside the court room. An office or waiting room must be made available to them to ensure their privacy.

6.2 The prosecutor must try to improve the communication link with the victim. The victim must know where to contact the relevant prosecutor at his/her office so as to facilitate being kept informed of all aspects of progress of the case. The victim should be informed of the role, scope and duration of the case as well as other relevant information.

If decisions are made about the handling of the case (e.g. to withdraw a charge) the victim must be informed about this in a manner which assists them to understand the reasoning.

6.3 Prosecutors must always bear in mind the general principle that witnesses must not be together with the prosecutor when consulting about their statements or the evident they will give.

6.4 The prosecutors must try to minimize inconvenience to the victims and witnesses, protect their privacy (in case of child victims, this will include ensuring the confidentiality of information concerning the child victim/witness). Where necessary, prosecutors must take steps to ensure the safety of witnesses and to protect them (and their families) from intimidation or harassment, i.e. by assisting in the arrangement of witness protection.

6.5 The prosecutor must make every effort to assist with witness fees and, upon request by the victim/witness, to assist in notifying the employer (or relevant authority, where the prosecution of the crime causes his/her absence from work.

7. Proceedings in Camera
The prosecutor must also inform the victim of section 153 of the Criminal Procedure Act (No 51 of 1977) and the importance thereof. Proceedings held in camera may reduce the trauma for the victim. However, the choice should lie with the complainant.

The evidence of the AHCP can also be held in camera when requested.

7.1 If the complainant wishes to have a friend or a member of their family in the court to assist them, the prosecutor must argue this aspect so that the complainant can have the necessary support. The support person should not be someone who could become a witness in the trial.

7.2 In terms of section 154(3) of the Criminal Procedure Act, no information, which may reveal the identity of a witness who is under 18 years of age, may be published. Where a witness does not fall within the ambit of that subsection, the prosecutor ought to request the court to issue an appropriate direction in terms of section 154(1) of the Act where the provisions of that subsection are applicable.

7.3 Prosecutors should also take not of section 335A of the Criminal Procedure Act which largely prohibits the publication of identifying information about the accused.

8. Proceedings with the Use of Intermediaries
When children testify, the prosecutor should generally apply to the court for permission to make use of the closed circuit camera system to protect the child from direct confrontation.

The decision is, however, one for the child and the prosecutor should assist the child to make an informed decision.

In terms of section 170A of the Criminal Procedure Act evidence through intermediaries may be accepted. This provision is only in respect of children under 18 years of age. If the court does not have this facility, there are mobile closed circuit camera units which can then be made available. The ideal would be for each and every court to be equipped with a closed circuit camera system.

This order is not automatically granted by the court, as the final decision will be left in the discretion of the magistrate.

9. Bail
The general approach should be that applications for bail must be opposed. If bail is however, granted, the prosecutor must request special conditions, e g if the victim is related to the offender, a condition forbidding contact should be requested. If the offender resides with the victim, the prosecutor must insist on a condition that the offender resides at some other place.

The prosecutor can also request special conditions, for instance that the offender is no allowed to contact or come into contact with the victim; that the offender is not allowed within a certain kilometer radius of the victims house, etc. In suitable cases, prosecutor may invoke section 50(6) the Criminal Procedure Act and request a postponement of the bail application.

It is vital to inform the victim of the result of any bail application.

10. Proceedings in Court
The prosecutor must oppose any unnecessary delaying tactics or adjournments at the request of the defence. Trials which are finalised after many months or years are greatly detrimental to the victim.

10.1 The prosecutor must object to unnecessary aggressive and badgering cross-examination of the victim and/or witnesses.

10.2 The prosecutor is also reminded of the provisions of section 227 of the Criminal Procedure Act. In particular, sub-section 227(2) only allows evidence of the sexual experience of the complainant to be admitted with the leave of the court if it is satisfied that such questioning is relevant.

11. Sentencing
Prosecutors should place before the court evidence relating to the impact (physical, emotional or financial) the crime has had on the victim's life.

11.1 Where the available evidence pertaining to aggravating circumstances has not been placed on record during the trial, this must be done after conviction. When the merits and complexity of a matter before court demand expert witnesses, they should be called to testify. An example is the problems encountered on treating sexual offenders such as paedophiles.

The provisions of section 286A of the Criminal Procedure Act, which allow person to be declared dangerous, may be useful.

11.2 Because of the seriousness of this type of offence, a special effort must be made by the prosecutor to address the court fully in every case. The prosecutors must not hesitate to call for a sentence of imprisonment.

11.3 When arguing for imprisonment the shortcomings and/or disadvantages of other sentencing options must be highlighted. For example, a suspended sentence or a sentence of correctional supervision will usually result in the offender being released back into his own home. This is obviously totally inappropriate where the victim resides in that home.

11.4 The prosecutor should consider prosecuting all cases of assault and indecent assault involving children under the age of 18, in the regional court, for purposes of proper sentences.

12. Appeal
Should the prosecutor be of the opinion that the sentence imposed is not appropriate, she/he must immediately contact the office of the Attorney-General to consider a possible appeal against the sentence in terms of section 310A of the Criminal Procedure Act. The prospects of a successful appeal on sentence will be enhanced where all the relevant evidence has been placed on record by the prosecutor.

Implementation details. The Department of Justice in South Africa, responding to a recommendation arising from meetings with criminal justice personnel and various NGOs, convened a Task Team to develop uniform national guidelines for all role-players handling rape and other sexual offence cases. This team comprised of personnel from the South African Police Service, the Departments of Health, Welfare and Correctional Services, representatives from different aspects of justice -prosecutors, magistrates and appellate courts - and an NGO representative from the National Network on Violence Against Women.

The Task Team met over a number of months with each Department being responsible for the drafting of its own guidelines, but all members of the Team had the opportunity to comment and assess the manner in which the different guidelines worked together. The aim was to compile a set of guidelines which would facilitate the development of an integrated and holistic approach across government and the NGO sector to deal with these offences.

The present document is a first attempt at developing a cohesive framework for dealing with sexual offences. It must now be fully tested by the people who work in this area. The Department of Justice hopes that the guidelines will serve two main linked purposes:

- To assist service providers with their work by being a practical tool
- Thereby to improve the experiences of victims in the legal system

If these goals are achieved the result should also be an increased conviction rate and appropriate decisions being taken on bail and sentences. These guidelines are part of a process or review and revise.

Evaluation. Not noted

Resource person or organization to contact for further information
Department of Justice, South Africa
Private Bag X81, Pretoria 0001

Selected sources
1. Department of Justice South Africa. (1997) **National Policy Guidelines for Victims of Sexual Offences.** (Pretoria: Department of Justice)

7. GOVERNMENT POLICIES RELATING TO PROSECUTORIAL POWERS - THE BRITISH COLUMBIA VIOLENCE AGAINST WOMEN IN RELATIONSHIP POLICY (CANADA)

The British Columbia Ministry of Attorney General implemented a policy on violence against women in relationships in 1993 which was updated in 1996. This policy is based on the understanding that assault in intimate relationships is a crime and that victims of such crimes require and deserve the protection of the criminal justice system. The following extract is taken from the chapter on “Crown Counsel” in the policy on the criminal justice system response to violence against women and children (VAWR Policy) 1996.

Synopsis

Text.
Crown Counsel
A. Introduction
Crown Counsel do not act on behalf of any specific victim, but rather represent, on behalf of society, a wider public interest.

The prosecution of cases of violence against women in relationships often involves a reluctant victim/witness. Crown Counsel must recognize and indicate to the victim that despite her reluctance, society has an interest in prosecuting offenders who perpetrate violent crimes within their relationships. The parties must never be led to believe that the victim has the power to initiate or end criminal charges.

Complex factors affect the victim's willingness to cooperate with the criminal justice system. This policy promotes rigorous prosecution of these offences, but also outlines factors which may tend to re-victimize the woman so that in administering the policy an appropriate balance can be struck between the interests of the victim and the criminal justice system.

B. Charge
1. The Crown Counsel charge standard requires that:
    i) there be a substantial likelihood of conviction; and
    ii) a prosecution of the accused is in the public interest.

Given the incidence of violence against women in relationships in Canada, the prosecution of such offences is almost invariably in the public interest. The decision to charge or continue the prosecution shall not be governed by the wishes of the victim. Crown Counsel should consider charges in such cases, even if the nature of the offence is minor.

2. Where there is a history of violence, laying additional counts relating to serious incidents in the past should be considered.

3. If a written statement cannot be obtained by the police, charges may be approved if they are made out on the basis of an oral statement. Crown Counsel should request police to take a written statement. Where there is insufficient evidence to meet the Crown Counsel charge standard, but it appears that the suspect may have assaulted or otherwise abused the victim, Crown Counsel should ensure the victim has been referred to victim services by police or Crown Counsel and should also consider whether a s.810 recognizance is needed and appropriate.

4. All independent evidence should be carefully considered with a view to providing corroboration and with a view to proceeding in the absence of the victim as a witness.

5. When a victim indicates an unwillingness to testify, Crown Counsel should refer her to victim services, if available. Crown Counsel or Crown Victim/Witness Services should also try to consult personally with the victim at the earliest opportunity to explain the court process and the rationale behind the Ministry of Attorney General policy, as well as to advise of the availability of support services throughout the court process.

6. Coordination should occur as necessary throughout the court process between Crown Counsel and specialized or other victim services. Crown Counsel and Crown Victim/Witness Services should consult victim support workers specializing in services to battered women where available. If the victim consents, the worker may be present during interviews.

7. Crown Counsel should be aware that inappropriate influence may be exerted by the accused at any stage of the court process and that women often deny the existence or severity of violence within their relationships. In almost all cases, public interest considerations apply in favour of prosecution; therefore, charges should usually only be stayed at the trial, upon establishing that the victim will not testify and that no other evidence is available. Charges should not be stayed in advance of the trial where:
    i) threats or inappropriate influences may be affecting the victim's willingness to testify;
    ii) there is a history of violence; or
    iii) the woman refuses to meet with Crown Counsel, so an assessment of the situation is not possible.

8. The processing of reports by Crown Counsel must be expedited, as unnecessary delay increases emotional stress and intimidation experienced by the victim. Whenever possible, Crown Counsel should attempt to ensure early trial dates and oppose adjournment applications that are not well founded.

8a. If the accused is still at large at the time charges are approved, public safety considerations usually favour requesting an unendorsed warrant from the Justice of the Peace so that appropriate bail conditions or a detention order may be imposed.

9. If recommended charges are reduced or rejected, Crown Counsel are obliged to ensure the charging decision and reasons are communicated to the police so they may advise the victim of the decision and reasons.

10. Diversion, in cases of violence against women in relationships, should generally be considered inappropriate, particularly prior to charges being laid, given the concern of past or further assaults on the victim. Diversion may be considered, in exceptional circumstances, provided the following conditions are met:

i) the victim must have been consulted and her wishes must have been considered as a factor;
ii) the victim must have been referred to victim services where diversion and support services are explained;
iii) Crown Counsel must determine that there is no apparent history of violence;
iv) if appropriate, the offender must agree to complete a treatment program approved by probation or the diversion program; and
v) the offence must not have been of such a serious nature as to threaten the safety or tolerance of the community.

11. Crown Counsel should consider laying charges under sections other than the assault section of the Criminal Code. For example, criminal harassment, threatening, mischief or harassing telephone call charges may be appropriate and serve to prevent the escalation of violence into physical force against the victim.

12. When there is not enough evidence to approve charges, Crown Counsel should consider use of Criminal Code peace bonds or where applicable, charges of breach of orders under the Family Relations Act.

C. Bail Hearing

1. Crown Counsel should ensure the police have provided any history of abuse in the RCC and that information should be presented at the bail hearing. Although police are empowered to release on bail with some of the conditions ordinarily required in cases of violence against women in relationships (for example: no contact, non-attendance terms), they have no power to impose the following conditions:

i) reporting or bail supervision;
ii) firearms or weapons prohibitions; or
iii) alcohol or drug prohibitions.

Therefore, in most cases of violence against women in relationships, it will not be appropriate for the police to release the accused as a justice or judge should usually be asked to consider bail supervision and is REQUIRED to consider a firearms prohibition. Where the accused poses a danger to the victim or anyone else, a detention order should be sought, as well as a no-contact order.

1a. If the accused is bound by a civil court order which imposes different conditions than those imposed at the bail hearing, Crown Counsel should ask the court to advise the accused that he must obey the most restrictive aspects of all orders binding upon him.

1b. Children are often used by abusers as a means of control over their partners. Whenever a no-contact order is requested or granted and an offender seeks a condition which allows access to children, Crown Counsel should carefully consider whether such an access order poses a risk to the victim and her children, or defeats the purpose of the no-contact order.

2. Wherever possible, the victim should be notified of the bail hearing and resulting bail order and terms.

3. If the accused and victim later seek removal of the no-contact condition of bail, Crown Counsel should contact the victim and bail supervisor for further information before addressing the matter in court. If there is a significant history of abuse, or the Crown Counsel determines that the victim may be at risk, an application to remove the no-contact order should be opposed by Crown Counsel, and the reasons stated to the court. It may be advisable to

provide the victim with further information on specialized victim services in order to assist her in dealing with the impact of the criminal justice process on her relationship and life.

4. In the case of an accused in custody as a result of a breach of bail, an anticipated breach of bail, or for re-offending, Crown Counsel should apply to cancel the prior bail status and oppose the release of the accused if further violence has been threatened or committed against the victim, if she fears for her safety, or other circumstances warrant such action.

5. Upon adjournment of a case involving violence against a woman in a relationship, Crown Counsel should assess the need for any change in bail conditions pending trial or sentencing.

D. Case Preparation

1. Crown Counsel who interviewed the victim should prosecute the case wherever possible.

2. Crown Counsel will make every reasonable effort to interview the victim well in advance of the preliminary hearing or trial date, to support and prepare the witness, advice her of the rationale behind the Ministry of Attorney General policy, and determine if there has been any intimidation or interference. If the victim consents, a victim support worker should be present.

3. Should Crown Counsel determine that the witness has been subjected to threats or interference, the matter should be referred back to police for investigation or re-arrest for a bail hearing. Laying additional charges is crucial in attempting to address the recurrent nature of violence against women in relationships.

4. The victim should always be personally served with a subpoena rather than being mailed a subpoena or notified by letter. The witness needs to be in a position, when under pressure not to testify, to indicate that she is under court order.

5. The investigating or another attending officer should usually be notified to attend the trial. If the victim will only attend with a police escort, because the accused poses a danger to her, efforts to arrange such transportation should be made.

6. Where the accused may raise a defence suggesting accidental injury, Crown Counsel should consider calling medical evidence or similar fact evidence tending to discredit such a defence.

7. Crown Counsel in remand or trial court should bring to the attention of the presiding judge cases where the accused has not sought counsel and intends to proceed to trial. The accused should be encouraged to seek counsel because the offence is regarded as serious and to avoid a trial where the accused cross-examines his spouse, a process which is often frightening and intimidating for the victim.

8. Crown Counsel should not apply for a material witness warrant for a victim who has failed to appear, unless the circumstances of the case are severe and there is some likelihood the victim will testify, or the testimony is also required for separate counts involving a child victim.

9. Crown Counsel should be sensitive to hardship to the victim in executing a material witness warrant. Crown Counsel should request police to make all reasonable efforts to ensure a minimum of hardship to the victim in the execution of the warrant.

10. Where a judge may be considering holding a woman in contempt for failing to attend or committing her to prison for failing to testify, Crown Counsel should usually take the position that such proceedings are inappropriate, because of the ineffectiveness of such action and concerns over re-victimization. Considerations may vary if a child is involved and at risk.

11. Crown Counsel should be sensitive, accommodating and aware of services available, including support services, where a victim has special cultural, communication and/or mobility-related needs.

12. Crown Counsel assigned to a prosecution will make every effort to maintain conduct of the case until the conclusion of the trial or preliminary hearing.

E. Sentencing

1. Crown Counsel should consult the victim before making a commitment in plea discussions which affects the victim or sentence of the accused.

2. Crown Counsel should seek appropriate conditions of probation, including no-contact and reporting conditions, and, where appropriate, successful completion of an assaultive men's treatment program to the satisfaction of the Probation Officer.

Reporting conditions are necessary to enable supervision of contact between parties and to monitor any treatment ordered for the offender. If an offender is already in an assaultive men's treatment program, the successful completion of that program should be a condition of probation.

3. The victim should always be advised by Crown Counsel or victim services of the date of the sentencing hearing.

4. Where there is a history of abuse, even in the case of a first-time offender, Crown Counsel should take the position that such history is relevant on sentencing. Therefore, Crown Counsel should raise the accused's history of violence and prepare the complainant to give evidence at the sentencing hearing if required.

5. Since violence against women in relationships is a persistent problem, the goal of deterrent sentencing should be pursued and the following factors should be considered when recommending an appropriate sentence:

i) a conditional discharge in such cases is generally not in the public interest;

ii) given the cyclical nature of the offence, a period of supervised probation, sufficient to allow for the successful completion of an assaultive men's treatment program, may be appropriate as part of any sentence imposed; and

iii) there is an element of breach of trust in the commission of a crime of violence within a relationship which is an aggravating factor.

6. Crown Counsel should consider making submissions on sentence about the dynamics of violence against women in relationships and the magnitude of the problem in Canada. The court should be advised of any options for treatment programs and Crown Counsel should advocate appropriate treatment. Family or couples counselling is inappropriate, given the ongoing power imbalance which exists between the accused and the victim.

7. Victim impact statement forms should be made available to the victim in a manner which does not jeopardize her safety. Crown Counsel should present the victim impact statement, where available, to the court in cases of violence against women in relationships.

8. Crown Counsel or a victim services representative should explain the case outcome to the victim.

F. Breach of Court Orders/Peace Bonds

1. Acting in conjunction with probation and police services, Crown Counsel must recognize the importance of breach of probation charges in cases of violence against women in relationships, where the nature of the crime is often cyclical and the offender may pose a continuing risk if treatment or other conditions are not fulfilled. Breach of probation charges should be rigorously pursued and are not appropriate charges to be dropped as a result of plea discussions.

2. In the case of a suspended sentence or conditional discharge, where a conviction for breach of probation or further offence has occurred, Crown Counsel should consider applying to revoke the suspended sentence or to alter the terms of probation, in order to ensure that the past violence and risk of future violence against the victim are dealt with as effectively as possible.

3. Applications for peace bonds under s.810 of the Criminal Code should be expedited by Crown Counsel engaged in charge approval, especially when a warrant is requested. The safety of the victim will usually require the Crown Counsel to request a warrant so that appropriate bail conditions may be imposed.

4. Crown Counsel conducting a peace bond application by a woman who is a victim of violence within her relationship should be aware that mutual peace bonds are almost invariably inappropriate.

G. Services to Victims

1. Crown Counsel should familiarize themselves with the specialized victim services available in their area and should, wherever possible, refer victims to those services.

2. Crown Counsel should be aware of the onerous nature of the justice system, (e.g. numerous interviews, travelling to court), especially for those with special needs or disabilities, and should provide extra support, where possible, including in those areas where no victim services exist.

H. Monitoring/Coordination

1. Responsibility for ensuring that this policy is implemented and monitored rests with Regional Crown Counsel. The Criminal Justice Branch will develop and maintain a system to monitor the Crown Counsel portion of this policy.

2. Crown Counsel are encouraged to attend community meetings, workshops and symposiums on violence against women in relationships. Where "Wife Assault Coordination Projects" or other wife assault coordinating committees exist, a Crown Counsel representative must be provided.

Resource person or organization to contact for further information

Province of British Columbia
Ministry of Attorney General
Community Justice Branch
Victim Services Division
302-815 Hornby Street
Vancouver, British Columbia, V6Z 2E6
Tel: 604-660-2527
Fax: 604-660-5340

Selected sources

1. Ministry of the Attorney General of British Columbia (1996). Policy on the Criminal Justice System Response to Violence Against Women and Children. Updated August 1996.

8. VICTIM FRIENDLY COURT (ZIMBABWE) (TO BE ADDED)

II Criminal Procedure

(C) TESTIMONY OF WOMEN IN COURT

Section 7(c) of the Model Strategies urges Member States to ensure that women subjected to violence have an opportunity to testify in court proceedings equal to that of other witnesses, that testifying be made as painless as possible, and that women's privacy be protected as much as possible

Examples of Promising Practices Relating to Testimony of Women in Court:

1. EVIDENTIARY RULE RELATING TO PAST SEXUAL HISTORY - THE RULES OF CRIMINAL PROCEDURE, SECTION 68 (GERMANY).....

2. EVIDENTIARY RULE OF PAST SEXUAL HISTORY: PROPOSED MODEL RAPE SHIELD STATUTE (UNITED STATES OF AMERICA).....

3. EVIDENTIARY RULES OF PAST SEXUAL HISTORY AND DISCLOSURE OF PERSONNEL RECORDS – CANADIAN CRIMINAL CODE S. 277 AND 278(1)- 9(1) (CANADA).....

4. EVIDENTIARY RULES REGARDING SPOUSE COMPELLABLE WITNESS - EVIDENCE ACT OF 1977 (QUEENSLAND) SECTION 8 (AUSTRALIA).....

5. GUIDELINES FOR CRIMINAL JUSTICE PERSONNEL WORKING WITH ABORIGINAL CHILD WITNESSES: "WORKING WITH ABORIGINAL CHILD VICTIM WITNESSES (CANADA) .....

6. SPECIFIC LEGISLATION RELATING TO FACILITATING TESTIMONY OF VICTIMS: "VICTIMS OF OFFENCES ACT, 1987" (NEW ZEALAND).....

7. VIOLENCE IN THE FAMILY (PREVENTION AND PROTECTION OF VICTIMS) ACT (CYPRUS) - *TO BE ADDED*

1. EVIDENTIARY RULE RELATING TO PAST SEXUAL HISTORY - THE RULES OF CRIMINAL PROCEDURE, SECTION 68 (GERMANY)

Section 68 of the German Rules of Criminal Procedure provides that questions which may lead to disgrace being brought on a witness or members of her/his family, or concern their personal lives may only be asked if it is indispensable to do so. This provision is to prevent victims of rape from being asked questions about their previous sexual experience.

2. EVIDENTIARY RULE OF PAST SEXUAL HISTORY: PROPOSED MODEL RAPE SHIELD STATUTE (UNITED STATES OF AMERICA)

Rape shield statutes have been codified in every state in the United States. There are four general models used, represented by the statutes of Michigan, Arkansas, California, and the federal statute. They vary in terms of permissiveness--with the Michigan statute being the most restrictive, and the Arkansas statute the least--and each prohibits, to varying degrees, admission of testimony regarding a victim's prior sexual conduct. In general, rape shield statutes act as rules of exclusion and seek to prevent the spectre of trying the victim during rape trials. The following text is taken from "Rape Crisis Counsellor Records" Southern California Law Review 68 (1995) 1344 which includes a proposed model rape shield statute.

Extract from article

Model Rape Shield Statute.

(A) *Purpose:* This Section is intended to protect the confidentiality of communications between victims of rape or sexual assault and rape crisis counsellors to the fullest extent allowable under the guarantees afforded the criminal defendant by the United States Constitution. This Section supports the public's interests in furthering the goals of counselling and treatment for rape victims, in encouraging rape victims to come forward and report the crime, and in protecting the victims' right to privacy of their counselling records. However, intrusions on this right are sometimes required in order to guarantee the criminal defendant's constitutional rights. These various goals must be balanced, and intrusions on the victim's right must sometimes be allowed to the extent required to protect the defendant's constitutional rights.

(B) *Confidentiality:* No rape crisis centre counsellor shall disclose any confidential communication, nor shall be compelled to disclose such information, except when so ordered by a court of competent jurisdiction pursuant to the procedures set forth below, or upon written consent of the victim.

(C) *Procedure for Allowing Disclosure of Rape Crisis Centre Records:* The following procedure must be followed before any confidential communications between the victim and the rape crisis counsellor may be disclosed:

(1) *Threshold Showing of Legitimate Need.* The defendant must make a pre-trial motion to the court identifying which documents are requested as part of discovery. Concurrently, the defendant must submit an affidavit setting forth the reasons why the documents are requested, alleging a *legitimate need* for access to the documents.

(a) *Legitimate Need.* The threshold showing of legitimate need requires a showing in good faith that the documents are likely to contain information *critical and material* to the defence, and central to a main issue of the case. A showing of mere relevance will not be sufficient to meet this burden. However, neither will the defendant be required to set forth in detail the information likely to be contained in the records. The court shall evaluate the request with consideration for the factors set forth in Section(C)(2).

(2) *The Court's Evaluation of the Motion.* The court shall evaluate the defendant's request and decide whether it meets the threshold requirements, and shall provide the reasons for its decision. When making its decision at this stage the court may consider the following factors:

(a) *Criticality of the information.* The court may consider how critical proof of the defendant's allegations is to the defendant's ability to present an effective defence. Substantial lack of other evidence may enhance the criticality of the evidence.

(b) *Availability of the information from other sources.* Though unavailability is not in itself enough to justify intruding into the victim's privacy, it is one factor that may be considered.

(c) *Specificity of the allegation.* If the court decides that the records are not likely to be relevant, or that the defendant's request is supported only by a desire to conduct a search through the victim's confidential records in order to discover some unspecified information that would assist in impeaching the victim's credibility, then the request shall be denied.

(d) *Other factors.* The court may consider any other factor it deems necessary to ensure the defendant's due process rights or to vindicate the victim's privacy interest.

(3) *In Camera Inspection by the Court.* If the defendant successfully meets the threshold showing then the court shall conduct an *in camera* inspection of the records.

(a) In this inspection the court shall identify those portions of the records, if any, that are *relevant* to the asserted theory set forth by the defendant in meeting the legitimate need test in Section (C)(1)(a). These portions of the records shall be disclosed to the defendant and to the prosecutor, subject to subsections (c) and (d) below.

(b) At the court's discretion, any other portions of the records the court determines are *relevant* to a *central issue* in the case may also be disclosed to the defendant and the prosecutor.

(c) The court may, at its discretion, prevent disclosure of otherwise relevant information if the probative value of disclosing the records is substantially outweighed by the victim's privacy interest in confidentiality of the information.

(d) The court shall not permit disclosure of evidence otherwise protected by the rape shield laws in this jurisdiction.

(4) *Disclosure of the Records to the Defence.* Upon disclosing the privileged records, or any portion thereof, to the defence, the court shall issue such protective orders as are required to ensure the information will not be divulged beyond the extent required for the stated purposes.

(5) *Use of the Records at Trial.* The burden is on the defendant to establish that disclosure of any portion of the records to the trier of fact is required to ensure the defendant's right to a fair trial. In addition, the burden is on the defendant to show that the evidence sought to be introduced should not be excluded under any other rule of evidence. If the defendant meets this burden then only those portions of the record for which this burden has been met may be disclosed to the trier of fact.

Evaluation. This section contains an evaluation on the four general models of rape shield statutes seen in the United States, taken from the same article in Southern California Law Review.

The Michigan approach, adopted by about half of the states, legislatively excludes entire categories of evidence, leaving little or no discretion to the court. Michigan's statute, and those patterned on it, exclude all evidence of the victim's sexual history, though all include an exception for prior sexual conduct with the defendant. Further exceptions are specified in some of the statutes, including (1) evidence of specific incidents of sex to prove alternative sources of physical evidence, such as presence of sperm, or evidence of forced entry; (2) evidence of sexual conduct used to prove the complainant's motive to lie about the charges; (3) evidence of a pattern of sexual conduct similar to the charged conduct offered to prove the complainant consented; (4) evidence of sexual conduct offered to prove the defendant's mistaken belief in consent; and (5) evidence of complainant's prior accusations of rape against others. In states with Michigan-style rape shield laws, any exception allowing admission of prior sexual conduct evidence must be codified in the statute. In states with rape shield laws patterned after one of the other three models, these exceptions are often judicially defined. Few states provide all, or even most, of the exceptions.

Regardless of which model of rape shield law applies, the difficulty with excluding this evidence is that it is much harder, and in some instances impossible, for an innocent defendant to present a defence-particularly in the he said/she said contests that characterise many acquaintance rape trials. What tools does the defendant have left to attack the complainant's credibility? One avenue remaining is for the defendant to introduce evidence of the victim's prior inconsistent statements concerning the rape. Rape crisis centre records may provide an excellent source of such

information. Furthermore, the underlying justice of the victim's claim derives, at least in part, from the overall context of the prior relationship between the victim and the defendant. Developing this context may require understanding the counselling process that led the woman to declare herself a victim not choose to imply an exception to the statute allowing *in camera* review of the records and at least partial disclosure in some instances.

Both Illinois and Pennsylvania currently uphold the absolute privilege afforded to communications between a rape crisis counsellor and a rape victim. However, it remains to be seen whether both statutes will continue to withstand constitutional challenge without judicially created exceptions allowing the privilege to be pierced when it impairs a rape defendant's constitutional rights.

A Washington statute provides a qualified privilege for rape crisis centres, and specifies the following procedure whereby a criminal defendant can request access to the complainant's records: (1) the defendant submits a pre-trial motion and affidavit setting forth specifically the reasons why he is requesting access to the rape crisis centre records; (2) the court reviews the records *in camera* to determine whether they are *relevant, and whether the probative value of the records is outweighed by the victim's privacy interest* in confidentiality; and (3) the court enters an order specifying whether the records or any part thereof are discoverable, and setting forth the basis for the decision. This statute provides a qualified, rather than an absolute, privilege.

Selected sources

1. “Rape Crisis Counsellor Records” Southern California Law Review 68 (1995) 1344.

3. EVIDENTIARY RULES OF PAST SEXUAL HISTORY AND DISCLOSURE OF PERSONNEL RECORDS – CANADIAN CRIMINAL CODE S. 277 AND 278(1)- 9(1) (CANADA)

Section 277 of the Canadian Criminal Code states that evidence of sexual reputation is not admissible to challenge or support the credibility of the complainant in certain proceedings. In effect, it reverses the common law rule of evidence of a reputation for sexual promiscuity was relevant to the complainant’s credibility. Section 278.1 to 278.91 dealing with personal information records were enacted in response to a Supreme Court of Canada decision which mandated the disclosure of therapeutic records in the possession of the Crown and set out a common law procedure for production and disclosure of records in the possession of third parties.

REPUTATION EVIDENCE.
s. 277. In proceedings in respect of an offence under section 151, 152, 153, 155 or 159, subsection 160(2) or (3) or section 170, 171, 172, 173, 271, 272 or 273, evidence of sexual reputation, whether general or specific, is not admissible for the purpose of challenging or supporting the credibility of the complainant.

DEFINITION OF "RECORD"
278.1 For the purposes of sections 278.2 to 278.9, "record" means any form of record that contains personal information for which there is a reasonable expectation of privacy and includes, without limiting the generality of the foregoing, medical, psychiatric, therapeutic, counselling, education, employment, child welfare, adoption and social services records, personal journals and diaries, and records containing personal information the production or disclosure of which is protected by any other Act of Parliament or a provincial legislature, but does not include records made by persons responsible for the investigation or prosecution of the offence.

PRODUCTION OF RECORD TO ACCUSED
278.2 (1) No record relating to a complainant or a witness shall be produced to an accused in any proceedings in respect of
(a) an offence under section 151, 152, 153, 155, 159, 160, 170, 171,172, 173, 210, 211, 212, 213, 271, 272 or 273,
(b) an offence under section 144, 145, 149, 156, 245 or 246 of the Criminal Code, chapter C-34 of the Revised Statutes of Canada, 1970, as it read immediately before January 4, 1983, or
(c) an offence under section 146, 151, 153, 155, 157, 166 or 167 of the Criminal Code, chapter C-34 of the Revised Statutes of Canada, 1970, as it read immediately before January 1, 1988,
or in any proceedings in respect of two or more offences that include an offence referred to in any of paragraphs (a) to (c), except in accordance with sections 278.3 to 278.91.

(2) Section 278.1, this section and sections 278.3 to 278.91 apply where a record is in the possession or control of any person, including the prosecutor in the proceeding unless, in the case of a record in the possession or control of the Prosecutor, that complainant or witness to whom the record relates has expressly waived the application of those sections.

(3) In the case of a record in respect of which this section applies that is in the possession or control of the prosecutor, the prosecutor shall notify the accused the record is in the prosecutor's possession but, in doing so, the prosecutor shall not, disclose the record's contents.

APPLICATION FOR PRODUCTION

278.3 (1) An accused who seeks production of a record referred to in subsection 278.2(1) must make an application to the judge before whom the accused is to be, or is being, tried.

(2) For greater certainty, an application under subsection (1) may not be made to a judge or justice presiding at any other proceedings, including a preliminary inquiry.

(3) An application must be made in writing and set out

(a) particulars identifying the record that the accused seeks to have produced and the name of the person who has possession or control of the record; and

(b) the grounds on which the accused relies to establish that the record is likely relevant to an issue at trial or to the competence of a witness to testify.

(4) Any one or more of the following assertions by the accused are not sufficient on their own to establish that the record is likely relevant to an issue at trial or to the competence of a witness to testify:

(a) that the record exists;

(b) that the record relates to medical or psychiatric treatment, therapy or counselling that the complainant or witness has received or is receiving;

(c) that the record relates to the incident that is the subject-matter of the proceedings;

(d) that the record may disclose a prior inconsistent statement of the complainant or witness;

(e) that the record may relate to the credibility of the complainant or witness;

(f) that the record may relate to the reliability of the testimony of the complainant or witness merely because the complainant or witness has received or, receiving psychiatric treatment, therapy or counselling;

(g) that the record may reveal allegations of sexual abuse of the complainant by a person other than the accused;

(h) that the record relates to the sexual activity of the complainant with any person, including the accused;

(i) that the record relates to the presence or absence of a recent complaint;

(j) that the record relates to the complainant's sexual reputation; or

(k) that the record was made close in time to a complaint or to the activity that forms the subject-matter of the charge against the accused.

(5) The accused shall serve the application on the prosecutor, on the person who has possession or control of the record, on the complainant or witness, as the case may be, and on any other person to whom, to the knowledge of the accused, the record relates, at least seven days before the hearing referred to in subsection 278.4(1) or shorter interval that the judge may allow in the interests of justice. The accused shall also serve a subpoena issued under Part XXII in Form 16.1 on the person who has possession or control of the record at the same time as the application is served.

(6) The judge may at any time order that the application be served on any person to whom the judge considers the record may relate.

HEARING IN CAMERA

278.4 (1) The judge shall hold a hearing in camera to determine whether to order the person who has possession or control of the record to produce it to the court for review by the judge.

(2) The person who has possession or control of the record, the complainant or witness, as the case may be, and any other person to whom the record relates may appear and make submissions at the hearing, but they are not compellable as witnesses at the hearing.

(3) No order for costs may be made against a person referred to in subsection (2) in of their participation in the hearing.

MAY ORDER PRODUCTION OF RECORD FOR REVIEW

278.5(1) The judge may order the person who has possession or control of the record to produce the record or part of the record to the court for review by the judge if, during the hearing referred to in subsection 278.4(1), the judge is satisfied that

(a) the application was made in accordance with subsections 278.3(2) to (6);

(b) the accused has established that the record is likely relevant to an issue at trial or to the competence of a witness to testify; and

(c) the production of the record is necessary in the interests of justice.

(2) In determining whether to order the production of the record or part of the record for review pursuant to subsection (1), the judge shall consider the salutary and deleterious effects of the determination on the accused's right to make a full answer and defence and on the right to privacy and equality of the complainant or witness, as the case may be, and any other person to whom the record relates. In particular, that judge shall take the following factors into account:

(a) the extent to which the record is necessary for the accused to make a full answer and defence;

(b) the probative value of the record;

(c) the nature and extent of the reasonable expectation of privacy with respect to the record;

(d) whether production of the record is based on a discriminatory belief or bias;

(e) the potential prejudice to the personal dignity and right to privacy of any person to whom the record relates;

(f) society’s interest in encouraging the reporting of sexual offences;

(g) society’s interest in encouraging the obtaining of treatment by complainants of sexual offences; and

(h) the effect of the determination on the integrity of the trial process.

RECORD BY JUDGE

278.6(1) Where the judge has ordered the production of the record or part of the record for review, the judge shall review it in the absence of the parties in order to determine whether the record or part of the record should be produced to the defence.

(2) The judge may hold a hearing *in camera* if the judge considers that it will assist in making the determination.

(3) Subsections 278.4(2) and (3) apply in the case of a hearing under subsection (2).

JUDGE MAY ORDER PRODUCTION OF RECORD TO ACCUSED

278.7 (1) Where the judge is satisfied that the record or part of the record is likely relevant to an issue at trial or to the competence of a witness to testify and its production is necessary in the interests of justice, the judge may order that the record or part of the record that is likely relevant be produced to the accused, subject to any conditions that may be imposed pursuant to subsection (3).

(2) In determining whether to order the production of the record or part of the record to the accused, the judge shall consider the salutary and deleterious effects of the determination on the accused's right to make a full answer and defence and on the right to privacy and equality of the complainant or witness, as the case may be, and any other person to whom the record relates and, in particular, shall take the factors specified in paragraphs 278.5(2)(a) to (h) into account.

(3) Where the judge orders the production of the record or part of the record to the accused, the judge may impose conditions on the production to protect the interests of justice and, to the greatest extent possible, the privacy and equality interests of the complainant or witness, as the case may be, and any other person to whom the record relates, including, for example, the following conditions:

(a) that the record be edited as directed by the judge;

(b) that a copy of the record, rather than the original, be produced;

(c) that the accused and counsel for the accused not disclose the contents of the record to any other person, except with the approval of the court;

(d) that the record be viewed only at the offices of the court;

(e) that no copies of the record be made or that restrictions be imposed on the number of copies of the record that may be made; and

(f) that information regarding any person named in the record, such as their address, telephone number and place of employment, be severed from the record.

(4) Where the judge orders the production of the record or part of the record to the accused, the judge shall direct that a copy of the record or part of the record be provided to the prosecutor, unless the judge determines that it is not in the interests of justice to do so.

(5) The record or part of the record that is produced to the accused pursuant to an order under subsection (1) shall not be used in any other proceedings.

(6) Where the judge refuses to order the production of the record or part of the record to the accused, the record or part of the record shall, unless a court orders otherwise, be kept in a sealed package by the court until the later of the expiration of the time for any appeal and the completion of any appeal in the proceedings against the accused, whereupon the record or part of the record shall be returned to the person lawfully entitled to possession or control of it.

REASONS FOR DECISION
278.8 (1) The judge shall provide reasons for ordering or refusing to order the production of the record or part of the record pursuant to subsection 278.5(1) or 278.7(1).

(2) The reasons referred to in subsection (1) shall be entered in the record of the proceedings or, where the proceedings are not recorded, shall be provided in writing.

PUBLICATION PROHIBITED
278.9 (1) No person shall publish in a newspaper, as defined in section 297, or in a broadcast, any of the following:
(a) the contents of an application made under section 278.3;
(b) any evidence taken, information given or submissions made at a hearing under subsection 278.4(1) or 278.6(2); or
(c) the determination of the judge pursuant to subsection 278.5(1) or 278.7(1) and the reasons provided pursuant to section 278.8, unless the judge, after taking into account the interests of justice and the right to privacy of the person to whom the record relates, orders that the determination may be published.

(2) Every person who contravenes subsection (1) is guilty of an offence punishable a summary conviction.

4. EVIDENTIARY RULES REGARDING SPOUSE COMPELLABLE WITNESS - EVIDENCE ACT OF 1977 (QUEENSLAND) SECTION 8 (AUSTRALIA)

Part II--WITNESSES
Division I--Who may testify
8. Witnesses in a criminal proceeding. [cf. Vic. Crimes s. 400; Eng. 1898; QId. C.C.s. 618A; QId. E.D.s. 5; W.A. ss. 8, 9.].
(1) In a criminal proceeding, each person charged is competent to give evidence on behalf of the defence (whether that person is charged solely or jointly with any other person) but is not compellable to do so.
(2) In a criminal proceeding, the husband or wife of each person charged is competent to give evidence for the prosecution or on behalf of the defence.
(3) In a criminal proceeding, the husband or wife of each person charged is compellable to give evidence on behalf of that person.
(4) In a criminal proceeding, the husband or wife of each person charged is compellable to give evidence for the prosecution or on behalf of the defence where-
(a) the offence charged against that person is under any provision mentioned in the Second Schedule or is an attempt to commit or an attempt to procure the commission of such an offence; and
(b) the person against or in respect of whom the offence charged is alleged to have been committed was at the time of the commission of the offence under the age of sixteen years.

(5) In a criminal proceeding, the husband or wife of each person charged is compellable to give evidence for the prosecution or on behalf of the defence wherever at common law he or she would have been competent or compellable to give evidence for the prosecution.
(6) Where the husband or wife of a person charged is competent but not compellable to give evidence for the prosecution or on behalf of the defence, the presiding judge, stipendiary magistrate or justice shall before the witness gives evidence and, where the proceeding is being conducted before a jury, in the absence of the jury, inform the witness that he or she is not compellable to give evidence if unwilling to do so.
(7) Nothing in this section shall-

(a) make the husband or wife of a person charged competent or compellable to give evidence for the prosecution or compellable to give evidence for the defence in a criminal proceeding in which that husband or wife is also charged; or
(b) affect the operation of section 11.

5. GUIDELINES FOR CRIMINAL JUSTICE PERSONNEL WORKING WITH ABORIGINAL CHILD WITNESSES: WORKING WITH ABORIGINAL CHILD VICTIM WITNESSES (CANADA)

This report was produced to help police, Crown Counsel, victim services and corrections personnel, as well as the judiciary to better meet the needs of Aboriginal child victim witnesses as they go through the justice system. The following description is taken from the BC Ministry of Attorney General Working With Aboriginal Child Victim Witnesses - Executive Summary.

Synopsis
Description. In January 1995, the British Columbia Ministry of Attorney General, Victim Services Division undertook the development of guidelines for criminal justice personnel working with Aboriginal child victim witnesses. The need for this report centred around the challenges justice system personnel face in their efforts to meet the requirements of the justice system as well as the information and support needs of the individual child. This responsibility is further complicated for system personnel when working with child victim witnesses who come from diverse cultural backgrounds. Although there is considerable information available on preparing and supporting child victim witnesses generally, especially in the area of sexual abuse, there is little information available to guide justice personnel in working with specific cultural groups such as Aboriginal children.

Implementation details. This project was conducted in three phases: first, a literature review relating to the communication and learning styles of Aboriginal children, relevant socio-cultural and child development issues was conducted. The second part involved consultation with Aboriginal and non-Aboriginal service providers from a selection of community and justice system organisations responsible for the information and support needs of child victim witnesses, with the final part detailing the preparation of guidelines, developed from the findings of the literature review and community consultation, to assist justice system personnel in their work with Aboriginal children.

Cost issues. Funding was supplied by the Province of British Columbia, Canada

Resource person or organization to contact for further information
British Columbia Ministry of Attorney General
Community Justice Branch
Victim Services Division
Suite 302, 815 Hornby Street
Vancouver, British Columbia
V6E 2E6 Canada
Fax: 604-660-5340

Selected sources
1. BC Ministry of Attorney General Working With Aboriginal Child Victim Witnesses - Part One: Guidelines, Part Two: Literature Review and Part Three: Study Findings (October 1996)

6. SPECIFIC LEGISLATION RELATING TO FACILITATING TESTIMONY OF VICTIMS: VICTIMS OF OFFENCES ACT, 1987 (NEW ZEALAND)

The New Zealand Victims of Offences Act 1987 directs prosecutors, judicial officers, officials and other persons who deal with victims to treat them with courtesy, compassion and respect for their personal dignity and privacy. Complainants should be given information on the types of services and remedies available to them. They should also be informed of their right to be heard at the offenders bail hearing.

7. VIOLENCE IN THE FAMILY (PREVENTION AND PROTECTION OF VICTIMS ACT) (CYPRUS) (TO BE ADDED)

II Criminal Procedure

(D) DEFENSES

Section 7(d) of the Model Strategies urges Member States to review, evaluate and revise their criminal procedure, as appropriate, in order to ensure that rules and principles of defense do not discriminate against women, and such defenses as honour or provocation do not allow perpetrators of violence against women to escape all criminal responsibility.

Examples of Promising Practices Relating to Defenses:

TO BE ADDED

II. Criminal Procedure

(E) VOLUNTARY INTOXICATION

Section 7(e) of the Model Strategies urges Member States to ensure that it is not possible to escape all criminal responsibility for acts of violence against women as a result of having been voluntarily under the influence of alcohol or drugs at the time.

Examples of Promising Practices Relating to Voluntary Intoxication:

1. LEGISLATION DEALING WITH INVOLUNTARY INTOXICATION - PENAL CODE TEXAS (UNITED STATES OF AMERICA) .....

2. LEGISLATION DEALING WITH INVOLUNTARY INTOXICATION - TENNESSEE CODE (UNITED STATES OF AMERICA).....

3. LEGISLATION DEALING WITH INVOLUNTARY INTOXICATION - THE CANADIAN CRIMINAL CODE (CANADA) .....

1. LEGISLATION DEALING WITH VOLUNTARY INTOXICATION - PENAL CODE TEXAS (UNITED STATES OF AMERICA)

The Penal Code of Texas Title 2 Chapter 8 Section 4 provides that voluntary intoxication is not a defence to the

commission of an offence.

Synopsis

Text. Sec. 8.04. Intoxication:
(a) Voluntary intoxication does not constitute a defense to the commission.
(b) Evidence of temporary insanity caused by intoxication may be introduced mitigation of the penalty attached to the offense for which he is being tried.
(c) When temporary insanity is relied upon as a defense and the evidence to
such insanity was caused by intoxication, the court shall charge the jury in accorda provisions of this section.
(d) For purposes of this section "intoxication" means disturbance of mental resulting from the introduction of any substance into the body.
(Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1 Leg., ch 900, Sec. 1.01, eff. Sept.1, 1994)

2. LEGISLATION DEALING WITH VOLUNTARY INTOXICATION - TENNESSEE CODE (UNITED STATES OF AMERICA)

A Senate House Bill was filed for discussion in 1997 regarding voluntary intoxication and criminal responsibility. Senate Bill 1812 by Crutchfield (House Bill 1747)

Synopsis

Text. AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 11, relative to defenses in criminal cases.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-11-503, is amended by deleting the language of the section in its entirety and by substituting instead the following:

> (a) A person who is in an intoxicated condition is criminally responsible for the person's conduct, and an intoxicated condition is not a defense to any offense. Intoxication may not be considered in determining the existence of a culpable mental state which is an element of the offense, unless the person proves a lack of knowledge of the intoxicating substance when the person consumed, smoked, sniffed, injected, or otherwise ingested the substance causing the intoxication.
>
> (b) Intoxication itself does not constitute a mental disease or defect within the meaning of §39-11-501.

SECTION 2. This act shall take effect July 1, 1997, the public welfare requiring it.

3. LEGISLATION DEALING WITH VOLUNTARY INTOXICATION - THE CANADIAN CRIMINAL CODE (CANADA)

The Canadian Criminal Code was amended following a Supreme Court of Canada decision in 1994, R v Daviault which disallows the defence of self-induced intoxication.

Synopsis

Text. The Criminal Code is amended by adding the following after section 33:

Self-induced Intoxication

33.1 (1) It is not a defence to an offence referred to in sub-section (3) that the accused, by reason of self-induced intoxication, lacked the general intent or the voluntariness required to commit the offence, where the accused departed markedly from the standard of care as described in subsection (2).

(2) For the purposes of this section, a person departs markedly from the standard of reasonable care generally recognized in Canadian society and is thereby criminally at fault where the person, while in a state of self-induced intoxication that renders the person unaware of, or incapable of consciously controlling, their behaviour, voluntarily or involuntarily interferes or threatens to interfere with the bodily integrity of another person.

(3) This section applies in respect of an offence under this Act or any other Act of Parliament that includes as an element an assault or any other interference or threat of interference by a person with the bodily integrity of another person.

II. Criminal Procedure

(F) PRIOR ACTS OF VIOLENCE

Section 7(f) of the Model Strategies urges Member States to ensure that evidence of prior acts of violence, abuse, stalking, and exploitation by the accused is considered during court proceedings.

Examples of Promising Practices Relating to Prior Acts of Violence:

1. LEGISLATION DEALING WITH EVIDENTIARY RULES OF OTHER ACTS OF SEXUAL ASSAULT OR MOLESTATION BY A PERPETRATOR: U.S. FEDERAL RULES OF EVIDENCE 413-415 (UNITED STATES OF AMERICA) .....

1. LEGISLATION DEALING WITH EVIDENTIARY RULES OF OTHER ACTS OF SEXUAL ASSAULT OR MOLESTATION BY A PERPETRATOR: U.S. FEDERAL RULES OF EVIDENCE 413-415 (UNITED STATES OF AMERICA)

In the recent U.S. Victim's Violent Crime Control and Law Enforcement Act 1994, three new Federal Rules of Evidence were enacted. These rules deal with the admissibility of similar uncharged acts in both criminal and civil cases. Federal Rule of Evidence 413, dealing with criminal prosecutions for sexual assault, sets out that evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant. Federal Rule of Evidence 414 and 415, dealing with criminal prosecution of child molestation, sets out that evidence of the defendant's commission of another offense or offenses of child molestation is admissible. Following the text of these rules, the sections discussing the implementation details and evaluation are taken from Smith, Susan “Evidentiary Developments: Victims Given More Protection Under New Federal Rules” found on http://www.smith-lawfirm.com/Rule415.html.

Text. Rules 413 and 415 of the Federal Rules of Evidence

Rule 413. Evidence of Similar Crimes in Sexual Assault Cases
(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in U.S.C. 513 of Title 18) that involved--

(1) any conduct prosecuted by 109A U.S.C. of Title 18;
(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;
(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;
(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or
(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

Implementation details. The new rules were adopted over vociferous objection of the Advisory Committee on Evidence Rules. The Committee reported to Congress that it represented the views of judges, lawyers, law professors and legal organizations opposing the proposal on the basis that the rules would allow the admission of unfairly prejudicial character evidence. The advisory committee argued that the Federal Rules of Evidence, as currently codified, would allow the admission of prior crime evidence in appropriate cases through the exceptions enumerated in Rule 404(b). The fact that Congress rejected the recommendation of the Advisory Committee clearly demonstrates its intent to provide for the admission of character and propensity evidence in this narrow range of cases.

Evaluation. Susan Smith notes that these rules are groundbreaking in their direct approval of admitting uncharged acts for the explicit purpose of propensity and disposition. Federal Rule of Evidence 404(b) clearly states that “[E]vidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith”. Such evidence may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. Until now, uncharged bad acts have never been admitted under the Federal Rules of Evidence on an explicit theory of propensity. In fact, judges usually give clear limiting instructions to juries when an uncharged bad act has been admitted. These limiting instructions are meant to clarify to a jury that they may use the uncharged offense only on the theory for which it was admitted (typically intent, plan, or identity). They also clarify that the jury may *not* use the uncharged bad acts generally to assess the defendant's character or his propensity to commit this type of crime. Although it is debatable whether or not juries comply with such instructions, as well as whether they are *capable* of doing so, these arguments have generally been used as reasons to keep the uncharged acts out completely rather than as reasons for adopting a propensity-based admissibility rule.

Though the new rules do not directly change the balancing test of Federal Rule of Evidence 404(b) they do directly affect the operation of the balancing test. Prior to the enactment of these rules. any reference to the defendant's bad character was deemed "prejudicial" and oftentimes led to the exclusion of that evidence. Under the new rules, although the balance test is still in place, the character inference as to the defendant's disposition to commit acts of child molestation or sexual assault is considered “probative” and will enhance the likelihood of admissibility. Only if the evidence was deemed too prejudicial on other grounds would it be excluded under Federal Rule of Evidence 404(b).

The new rules are also groundbreaking in that they were passed by Congress rather than by the Judicial Conference of the United States. On February 9, 1995 the Judicial Conference made recommendations to Congress regarding these new rules. However, Congress was not obligated to respond. With no response from Congress, the rules became law on July 9, 1995. Congress has supported these new rules with a common-sense analysis. Congress people were outraged that the Federal Rules of Evidence were being used to keep juries from finding out about the extremely probative evidence of uncharged rapes unless the crimes were extremely similar on their facts.

Since these rules were proposed, their necessity and projected impact have been the subject of heated debate. These rules are supported by the following theories: (1) they are needed to deal with the typical swearing matches that occur between victims and defendants in rape and sexual molestation cases; (2) they help address the inflexibility of our current system of admissibility; (3) they are useful based on the doctrine of chances; and (4) it is true that a person who commits one act of rape or sexual molestation is likely to be the kind of person who would do it again. The four main arguments against these rules are: (1) they are not needed; (2) the current system provides an important balance which would be destroyed with the adoption of these rules; (3) the rules are unfair to defendants; and (4) they waste time and money.

Resource person or organization to contact for further information
U.S. Department of Justice
Office of Justice Programs
National Institute of Justice
Washington, D.C. 20531

Selected sources

1. Federal rules of evidence under victim's violent crime control and law enforcement Act (VAW Act) 1994, Rule 413, 414 (USA) Yale Journal of Law & Feminism 1996 V.8

2. David J. Karp, *Evidence of Propensity and Probability in Sex Offense Cases and Other Cases*, 70 Chicago-Kent L. Rev. (1994) (article by author of FED. R. EVlD. 413-415 providing background on Rules);

3. Daniel E. Lundgren, *Stopping Rapists and Child Molesters by Giving Juries All the Facts--Reforms in Federal and California Law*, PROSECUTOR'S BRIEF, No. 2, 1995, at 13

4. Smith, Susan "Evidentiary Developments: Victims Given More Protection Under New Federal Rules" found on http://www.smith-lawfirm.com/Rule415.html

II. Criminal Procedure

(G) PROTECTION, RESTRAINING AND OCCUPATION ORDERS

Section 7(g) of the Model Strategies urges Member States to ensure that the courts have the authority to issue protection orders in cases of violence against women, which order the perpetrator removed from the home, prohibit further contact with the victim and others, and impose penalties for breaking the order

Examples of Promising Practices Relating to Protection, Restraining and Occupation Orders:

1. RESTRAINING ORDER: APPREHENDED DOMESTIC VIOLENCE ORDER IN THE CRIMES (DOMESTIC VIOLENCE) AMENDMENT ACT (AUSTRALIA) .....

2. RECOMMENDATIONS ON EX PARTE PROTECTION ORDERS BY THE LAW COMMISSION (SOUTH AFRICA) .....

3. PROCEDURES FOR PROTECTION ORDERS CONTAINED IN DOMESTIC VIOLENCE LEGISLATION: THE DOMESTIC VIOLENCE LAW ACT NO. 10 OF 1991 (TRINIDAD & TOBAGO)

4. BINDING OVER ORDERS CONTAINED IN CRIMINAL LAW LEGISLATION - CRIMINAL CODE SECTION 810 PEACE BONDS (CANADA).....

5. BROCHURE ON PEACE BONDS AND RESTRAINING PUBLISHED BY THE BRITISH COLUMBIA MINISTRY OF ATTORNEY GENERAL (CANADA) .....

6. PROTECTION ORDERS UNDER THE DOMESTIC VIOLENCE ACT 1995 (NEW ZEALAND) .....

7. EXAMPLES OF TERMS OF PROTECTION ORDERS: COMPARATIVE DISCUSSION BY THE SOUTH AFRICAN LAW COMMISSION (SOUTH AFRICA) .....

8. EXAMPLES OF TERMS OF PROTECTION ORDERS AND THE EXCLUSION OF THE RESPONDENT FROM THE MATRIMONIAL HOME: COMPARATIVE DISCUSSION BY THE SOUTH AFRICAN LAW COMMISSION (SOUTH AFRICA) .....

9. PROPOSED LEGISLATION PRIMARILY DEALING WITH PROTECTION IN DOMESTIC VIOLENCE CASES: DOMESTIC ABUSE ACT: DRAFTED BY THE ALBERTA LAW REFORM INSTITUTE (CANADA).....

10. LEGISLATION PRIMARILY DEALING WITH PROTECTION ORDERS: VICTIMS OF DOMESTIC VIOLENCE ACT, SASKATCHEWAN (CANADA)

11. THE DOMESTIC VIOLENCE (PROTECTION ORDERS) ACT, 1992 (BARBADOS) - *TO BE ADDED*

12. DOMESTIC VIOLENCE ACT NO.28 OF 1992 (BELIZE) - *TO BE ADDED*

13. PUERTO RICO ACT NO.54 OF 1989 (PUERTO RICE - *TO BE ADDED*

1. RESTRAINING ORDER: APPREHENDED DOMESTIC VIOLENCE ORDER IN THE CRIMES (DOMESTIC VIOLENCE) AMENDMENT ACT (AUSTRALIA)

In New South Wales, the Crimes (Domestic Violence) Amendment Act contains procedures for the issuance of protection orders which are granted on a balance of probabilities and breach thereof constitutes a criminal offence. The following description of the procedure is taken from an article by Suzanne Hatty “Male Violence and the Police: An Australian Experience” (cited below).

Synopsis

Description. The Apprehended Domestic Violence Order, as set down in the New South Wales Crimes (Domestic Violence) Amendment Act, is instituted through a complaint laid by the victim or a police officer (s.547AA). (As of February, 1988, this section became known as s.562). The grounds for application for an order include the apprehension of a domestic violence offence on the part of the victim, or the apprehension of behaviour such as harassment or molestation which excludes actual or threatened violence. The magistrate issuing the order must be satisfied of the above on the balance of probabilities.

An order under s.562 imposes restrictions or prohibitions on the conduct of the violent or potentially violent party for a period specified by the court. The court may grant an order imposing all or any of the following conditions:
(i) prohibit or restrict approaches by the defendant to the aggrieved person;
(ii) prohibit or restrict access by the defendant to any specified premises occupied by; any specified place of work of; or any other specified premises or place frequented by, the aggrieved person, whether or not the defendant has a legal or equitable interest in the premises or place;
(iii) prohibit or restrict the possession of firearms by the defendant;
(iv) prohibit or restrict specified behaviour by the defendant which might affect the aggrieved person.

The court must consider the accommodation needs of the parties and the impact of the order upon children. An interim order may be made under s.562H; this order may be made in the absence of and without notice to the defendant.

At any time, the complainant, the aggrieved spouse (if a police officer is the complainant), or the defendant, may seek a revocation or variation of an order. Breach of an order constitutes a criminal offence; that is, it must be proved beyond reasonable doubt. Police are empowered to arrest following a breach without a warrant. The offence carries a maximum penalty of six months' imprisonment. The court may now impose a fine on breach, and order that the provisions of the Bail Act apply whilst an order is subject to appeal. The court may also issue a warrant for the arrest of the defendant or a summons for the appearance of the defendant where a complaint is made.

In cases in which there is an arrest for domestic violence offences, police must consider the future safety of the victim whilst the accused is on bail. Hence, it is expected that appropriate restrictions be applied to the behaviour of the accused during this time.

Selected Sources

1. Hatty, Suzanne Male Violence and the Police: An Australian Experience (N.S.W.: School of Social Work, University of New South Wales: 1990)

2. RECOMMENDATIONS ON EX PARTE PROTECTION ORDERS BY THE LAW COMMISSION (SOUTH AFRICA)

The South African Law Commission in 1996 undertook to review the Prevention of Family Violence Act 133 of 1993 and propose a new legislation - the Domestic Violence Bill. Part of this review included a comparative analysis regarding ex parte orders. The following extract is taken from the South African Law Commission, Discussion Paper 70 Project 100 Domestic Violence.

Text. The Law Commission recommended that the legislation provide: (a) For the granting of interim interdicts ex parte and a rule nisi calling upon the respondent to show cause on the return day of the order why the provisional interdict granted against the respondent should not be made final.

Implementation details. The South African Law Commission compared the position of other jurisdictions before making their recommendation. These include:
(i) The Law Commission (England) emphasises that there are a number of inherent drawbacks to ex parte orders. The danger of misconceived or malicious application being granted or the risk of some other injustice being done to the respondent is inevitably greater where the court has only heard the applicant's side of the story and the respondent has had no opportunity to reply. Also, on ex parte applications, the judge has no opportunity to try and resolve the parties' differences by agreed undertakings or otherwise to reduce the tension of the dispute. Equally, there is no opportunity to bring home the seriousness of the situation to the respondent and to underline the importance of complying with the order. It however, points out that despite the accepted need for caution, it is well recognised that there are occasions when ex parte orders are both necessary and desirable. In cases of imminent physical violence it is difficult to think of a more compelling justification, in a proper case, for permitting concern about the inherent dangers of ex parte orders to be outweighed. It accordingly recommends that the court should retain a general discretion to grant orders without prior notice to the respondent where in all the circumstances it would be just and convenient. There should, however, be a requirement to take the following factors into account:

(a) The risk of significant harm to the applicant or a child if the order is not made immediately.
(b) Whether it is likely that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately.
(c) Whether there is reason to believe that the respondent is aware of the proceedings but is deliberately evading service and the applicant or a child will be seriously prejudiced by the delay involved in effecting service or substituted service.

(ii) The Australian Capital Territory: an ex parte interim order may be obtained at short notice. The order is valid for 10 days.

(iii) New South Wales: an ex parte interim order may be obtained quickly. The defendant is summoned to appear at

a hearing as soon as possible, at which hearing the court may either confirm, vary or revoke the order.

(iv) Northern Territory: the court may grant an ex parte interim order. The defendant is summoned to show cause why the order should not be confirmed.

(v) Queensland: an ex parte interim order (which is called a "temporary order") may be obtained quickly. The order usually lasts for 30 days but may be extended.

(vi) South Australia: an interim ex parte order may be made at short notice. After such an order is made the defendant is summoned to appear to show cause why the order should not be continued. An interim order is binding once it is served on the defendant.

(vii) Tasmania: an interim ex parte order may be made by the court at short notice in emergency cases. The order, which is not binding until served, operates for a maximum of 60 days or until further order of the court.

(viii) Victoria: an ex parte interim order may be made in emergencies. An interim order is binding on the defendant once it is served. The order operates for the time specified by the court or until a further order is made.

(ix) Western Australia: an interim ex parte order may be made at short notice. The order is binding on the defendant once it has been served. The defendant is summoned to show cause why the order should not be confirmed.

(x) Alberta, Canada: to obtain a restraining order ex parte, the applicant must established that taking the time to give notice would compromise the safety of the applicant or the applicant's children. The inference of an apprehension of immediate danger must be borne out by the information contained in the affidavit. The Alberta Law Reform Institute concludes that emergency conditions would obviously have to be present before an order would be given on an ex parte basis. The question of the duration of ex parte orders would have to be addressed.

(xi) New Zealand: a protection order may be made on an application without notice if the court is satisfied that the delay that would be caused by notice would or might entail a risk of harm or undue hardship to the applicant or a child of the applicant's family or both. A protection order made on application without notice is a temporary order that becomes final by operation of law three months after the date on which it is made. The respondent may notify the court that he wishes to be heard on whether a find order should be substituted for the temporary protection order. A heating date must then be assigned which must be as soon as is practicable but not later than 42 days after receipt of the respondent's notice. The court may also of its own motion require a heating before the order becomes final.

(xii) Kentucky: if the court determines that there is an immediate and present danger of domestic violence and abuse, an ex parte emergency protective order shall be issued. Such order shall be effective for a period of time fixed in the order, but not exceeding 14 days. A date for a full hearing shall be fixed not later than the expiration date of the emergency protective order.

(xiii) Minnesota: where there is an immediate and present danger of domestic abuse, the court may grant an ex parte temporary order of protection, pending a full heating. The said order shall be effective for a fixed period not exceeding 14 days.

Evaluation. The South African Law Commission states that it is obvious that in many applications for interdicts brought under the Act there will be genuine urgency present, thus justifying the granting of interdicts ex parte. As argued by the Law Commission (England), in cases of imminent physical violence it is difficult to think of a more compelling justification, in a proper case, for permitting concern about the inherent dangers of ex parte orders to be outweighed. Other jurisdictions recognise the granting of orders made without notice provided that a situation of urgency is demonstrated.

The Commission is concerned that an unrestricted discretion to decide what circumstances would justify an ex parte order, might give rise to legal uncertainty and the consequent denial of relief to many victims of abuse who should qualify for emergency protection. Consideration could be given to the inclusion of a section indicating the factors that should be taken into account when exercising a discretion to grant an order without prior notice to the respondent.

The Commission is, however, convinced that family violence situations are extraordinary ones in all cases, justifying the ex parte issuance of interdicts. It is well known that the most dangerous time for any domestic violence victim is when she tries to separate herself from the abuser. Obtaining an interdict is exactly the type of action likely to trigger a violent response. To give the batterer advance notice of the victim's intended behaviour will prove catastrophic in many situations, and it will probably be impossible to predict when danger will arise.

It is submitted that the inherent drawbacks to ex parte orders and criticism that the Act is an unjustified departure from the audi alteram principle, would be allayed by providing for the granting of interim interdicts ex parte and a rule nisi calling upon the respondent to show cause on the return day of the order why the provisional interdict being granted against him should not be made final. On the return day, the *respondent bears no* onus: it is for the applicant to *persuade* the court that he or she should be granted final relief. In all the *jurisdictions* considered *orders* made on application without notice are temporary orders.

Selected Sources

1. South African Law Commission, Discussion Paper 70 Project 100 Domestic Violence (30 May 1997) (ISBN 0-621-17650-8)

3. PROCEDURES FOR PROTECTION ORDERS CONTAINED IN DOMESTIC VIOLENCE LEGISLATION: THE DOMESTIC VIOLENCE LAW ACT NO. 10 OF 1991 (TRINIDAD & TOBAGO)

The Domestic Violence Act was passed in 1991 in Trinidad & Tobago. This Act provides legal protection for victims of domestic violence by empowering Magistrates Courts to grant Protection Orders, to provide police with power to arrest and lay charges where there was a breach of the Court’s Order or where a domestic violence offense was committed. On the initiatives of the Gender Affairs Division, a Cabinet appointed Committee was created, chaired by the Minister of Legal Affairs to review the 1991 legislation, in an attempt to make it more effective. Several public consultations were held in late November and early December 1997 and recommendations were made. This reformed legislation will be again presented in Parliament for debate and final acceptance.

4. BINDING OVER ORDERS CONTAINED IN CRIMINAL LAW LEGISLATION - CRIMINAL CODE SECTION 810 PEACE BONDS (CANADA)

In Canada, when an investigation reveals elements of a threatening, intimidation, or an assault, and the investigator concludes that there is insufficient evidence for a criminal charge, the complainant may still have grounds to apply for a recognizance against the suspect. The complainant need only fear on reasonable grounds that the suspect will cause the complainant personal injury, injury to a family member, or will damage personal property. Where a complainant has expressed an intention to proceed with a Section 810 recognizance and there are reasonable grounds that the suspect will cause the complainant personal injury, injury to a family member, or will damage personal property, the investigating member shall submit a Report to Crown Counsel, The Report to Crown Counsel should be delivered to Police Court Services or to the Jail NCO prior to the end of the member's shift. Members should advise the complainant that Crown Counsel will review the Section 810 application and that Crown Counsel will contact the complainant and advise them of the status of the application and will direct the complainant on the process to swear an information. Members shall not refer the complainant to the Crown Counsel office.

Text.

WHERE INJURY OR DAMAGE FEARED

810 (1) An information may be laid before a justice by or on behalf of any person who fears on reasonable grounds that another person will cause personal injury to him or her or to his or her spouse or child or will damage his or her property.

(2) A justice who receives an information under subsection (1) shall cause the parties to appear before him or before a summary conviction court having jurisdiction in the same territorial division.

(3) The justice or the summary conviction court before which the parties appear may, if satisfied by the evidence adduced that the person on whose behalf the information was laid has reasonable grounds for his or her fears,

(a) order that the defendant enter into a recognizance, with or without surieities, to keep the peace and be of good behaviour for any period that does not exceed twelve months, and comply with such other reasonable conditions prescribed in the recognizance, including the conditions set out in subsections, (3.2), as the court considers desirable for securing the good conduct defendant; or

(a) commit the defendant to prison for a term not exceeding twelve mouths if he or she fails or refuses to enter into the recognizance.

(3.1) Before making an order under subsection (3), the justice or the summary conviction court shall consider whether it is desirable, in the interests of the safety of the defendant or of any other person, to include as a condition of the recognizance that the defendant be prohibited from possessing any firearm or any ammunition or explosive substance for any period of time specified in the recognizance and that the defendant surrender any firearms acquisition certificate that the accused possesses and, where the justice or summary conviction court decides that it is not desirable, in the interests of the safety of the defendant or of any other person, for the defendant to possess any of those things, the justice or summary conviction court may add appropriate condition to the recognizance.

(3.2) Before making an order under subsection (3), the justice or the summary conviction court shall consider whether it is desirable, in the interests of the safety of the informant, of the person on whose behalf the information was laid or of that person's spouse or child, as the case may be, to add either or both of the following conditions to the recognizance, namely, a condition

(a) prohibiting the defendant from being at, or within a distance specified in the recognizance from, a place specified in the recognizance where the person on whose behalf the information was laid or that person's spouse or child, as the case may be, is regularly found; and

(b) prohibiting the defendant from communicating, in whole or in part, directly or indirectly, with the person on whose behalf the information was laid or that person's spouse or child, as the case may be.

(4) A recognizance and committal to prison in default of recognizance under subsection (3) may be in Forms 32 and 23 respectively.

(4.1) The justice or the summary conviction court may, on application of the informant or the defendant, vary the conditions fixed in the recognizance.

(5) The provisions of this Part apply, with such modifications as the circumstances require, to proceedings under this section.

WHEN FEAR OF CRIMINAL ORGANIZATION OFFENCE

810.01 (1) A person who fears on reasonable grounds that another person will commit a criminal organization offence may, with the consent of the Attorney General, lay an information before a provincial court judge.

(2) A provincial court judge who receives an information under subsection (1) may cause the parties to appear before the provincial court judge.

(3) The provincial court judge before whom the parties appear may, if satisfied by the evidence adduced that the informant has reasonable grounds for the fear, order that the defendant enter into a recognizance to keep the peace and be of good behaviour for any period that does not exceed twelve months and to comply with any other reasonable conditions prescribed in the recognizance, including the conditions set out in subsection (5), that the provincial court judge considers desirable for preventing the commission of a criminal organization offence.

(4) The provincial court judge may commit the defendant to prison for a term not exceeding twelve months if the defendant fails or refuses to enter into the recognizance.

(5) Before making an order under subsection (3), the provincial court judge shall consider whether it is desirable, in the interests of the safety of the defendant or of any other person, to include as a condition of the recognizance that the defendant be prohibited from possessing any firearm or any ammunition or explosive substance for any period specified in the recognizance and that the defendant surrender any firearms acquisition certificate that the defendant possesses, and where the provincial court judge decides that it is not desirable, in the interests of the safety of the defendant or of any other person, for the defendant to possess any of those things, the provincial court judge may add the appropriate condition to the recognizance.

(6) The provincial court judge may, on application of the informant, the Attorney General or the defendant, vary the conditions fixed in the recognizance.

(7) Subsections 810(4) and (5) apply, with any modifications that the circumstances require, to recognizances made under this section. 1997, c. 23, s. 19.

5. BROCHURE ON PEACE BONDS AND RESTRAINING PUBLISHED BY THE BRITISH COLUMBIA MINISTRY OF ATTORNEY GENERAL (CANADA)

The British Columbia Ministry of Attorney General produced a brochure for the public explaining peace bonds and restraining orders as a way to protect yourself from violence in a relationship. The following is the text of the brochure.

Text. Peace Bonds and Restraining Orders: Protecting Yourself from Relationship Violence

PLEASE NOTE:

This brochure is intended for general information only. It is not a statement of the law. The relevant statutes and regulations should be consulted for all purposes of interpreting and applying the law, The writers and distributors of this pamphlet do not guarantee its legal accuracy and do not accept responsibility for loss or inconvenience suffered by users.

PEACE BONDS AND RESTRAINING ORDERS
Have you been threatened or been the victim of violence?

Are you afraid that the violence will continue or get worse?

What can you do if you are afraid of someone?

This pamphlet describes two legal orders which can help protect you:

- a peace bond (under section 810 of the *Criminal Code),* or
- a restraining order (under the *Family Relations Act,* section 36.1).

Where do I go if I still have questions?

For more information on assistance available to victims of crime in your community, call your local police or Victim Services Program. Or call the Victim Information Line at 1-800-563-0808.

PEACE BONDS
What is a peace bond?

A peace bond is an order made by a judge that restricts the activities of one person in order to prevent harm to another person. A peace bond may include conditions to protect children and property.

Peace bonds are not limited to situations between partners or spouses. They may be ordered to prevent violence or damage in the neighbourhood, in the workplace or in the extended family. However, since peace bonds are most often requested by individuals in relationships, this pamphlet will use that situation to explain the steps involved in obtaining these legal orders.

How does a peace bond work?

A peace bond will set out certain conditions that your partner or spouse must follow. Your partner or spouse will usually be ordered to have no contact with you. This means that no visits are allowed to your workplace or home, and no phone calls or letters to you are permitted. Indirect contact with you is not permitted either (for example, if someone else contacts you on behalf of your partner or spouse).

Once the peace bond is made, phone calls, letters and visits are not allowed, even if you want them, unless the peace 'bond is changed by a judge. It is a criminal offence for your partner or spouse to do anything forbidden by the peace bond. A peace bond may last for up to 12 months.

How do I get a peace bond?

Step 1:

Contact the police. You will be required to sign a statement to the police that explains why you are afraid of your partner or spouse and what has happened to make you feel that way. If you feel you are in immediate danger, tell the police clearly why you feel that way. If anyone has seen or heard anything that can confirm your statements, give that person's name and address to the police.

Make a note of the officer's name and the police file number of your case. That way you can find out what is happening with your case, or get help quickly if needed.

Step 2:

The start of court action. The police will send a report to a lawyer called the Crown Counsel, who will review the report and will prepare an Information if satisfied that the report gives sufficient grounds. An Information is a formal written complaint against your partner or spouse. A brief explanation of what has happened and that your are afraid of your partner or spouse will be included in the Information. When the Information is ready, you will have to go to a Justice of the Peace to explain your situation and sign the Information. The Crown Counsel's office will co-ordinate the appointment with the Justice of the Peace.

If you feel you are in immediate danger explain this to the Justice of the Peace. The Justice of the Peace has the power to order the immediate arrest of your partner or spouse. Your partner or spouse may then be released on bail under certain conditions (for example, that no contact is made with you). These conditions are meant to protect you until your case is heard in court.

Step 3:

Going to court. Your partner or spouse will have to go to court, either as part of the bail conditions or in answer to a summons from the court. In court, if your partner or spouse agrees to the conditions you have asked for, a peace bond will be ordered by the judge. If your partner or spouse denies that you have valid reasons for your fears, a court date will be set for a hearing.

You will receive a notice of the hearing date. When you go to court for the hearing, the Crown Counsel will handle the case and will call you as the primary witness. The Crown Counsel will ask you to explain to the judge why your are afraid of your partner or spouse and what has happened to make you feel that way. Your partner or spouse (or lawyer, if one has been hired), can ask you questions in court about the matter.

If there are other witnesses supporting your testimony, such as a neighbour or family member, the Crown Counsel will call them as witnesses. Your partner or spouse may also give an account of events, and may call witnesses to testify.

If the judge is satisfied that you have reasonable grounds for your fears, the judge will order that your partner or spouse sign a peace bond. The judge will set out the conditions your partner or spouse must obey for the duration of the order. The judge will also set an amount of money that your partner or spouse can be ordered to pay to the court registry if the conditions are not obeyed.

Ask the court staff or the Crown Counsel for a copy of the peace bond. Read it over to make sure you understand the conditions, and keep it on hand to show the police if you need to call them.

What happens if the peace bond is not obeyed?

If your partner or spouse does not obey the conditions of the peace bond, call the police immediately. Explain that you have a peace bond and that your partner or spouse has not obeyed the conditions set out in the bond. The police and Crown Counsel will arrange for criminal charges to be laid against your partner or spouse. If you are in immediate danger, the police may ask for a warrant to arrest your partner or spouse. You will be asked to provide a written statement describing what happened.

If convicted of the criminal charges for disobeying the order, your partner or spouse will have a criminal record. Your partner or spouse may also be:

- fined up to $2,000;
- sent to jail for up to six months;
- placed on probation for up to three year; or face a combination of any two of these options.

The consequences of disobeying the order will vary depending on the circumstances of each case. The maximum fines and jail terms are not usually imposed unless the circumstances are very serious or your partner or spouse has repeatedly disobeyed the order.

Your partner or spouse may also be ordered to pay the court registry the amount set in the original peace bond order.

What happens if my partner or spouse obeys the peace bond?

By obeying the conditions of the peace bond, your partner or spouse:

- will not get a criminal record;
- will not have to pay money to the court registry; and,
- will not have to go to jail

What if I want to cancel or change the peace bond?

If you want to withdraw your applications for a peace bond before the court hearing or if you want the terms of the bond changed after it is made, contact Crown Counsel.

Will my partner or spouse face other charges?

It is a criminal offence for your partner or spouse to assault you or your children, threaten you with bodily harm or damage your property. If the police discover during their investigations that these, or any other offences have occurred, the police will investigate and will prepare a report for Crown Counsel. Crown Counsel will decide it' your partner or spouse should be charged. Although you will be consulted, the charges will go ahead even if you say you do not want them to.

Do I need to hire a lawyer to get a peace bond?

A private lawyer is not necessary in order to get a peace bond since Crown Counsel conducts the proceedings.

RESTRAINING ORDERS

What is a restraining order?

A restraining order is made by a judge to restrict the activities of one person in order to prevent that person from annoying and harassing another person. Unlike a peace bond, which is covered under the criminal law, a restraining order is a civil procedure.

A restraining order is usually made in connection with a custody or separation action in family court. You must either be married, have lived with your partner for at least two years, or be a parent to apply for a restraining order (a parent can include a guardian or step-parent). Since most restraining Orders are requested by individuals in relationships, that situation will be used to explain the steps involved in obtaining these legal orders.

How does a restraining order work?

Like a peace bond, a restraining order sets out certain conditions. The court may order your partner or spouse to stay away from the place where you and your children live. Your partner or spouse may also be ordered not to contact you at work, by phone or by mail. A restraining order usually has an expiry date, especially if your partner or spouse was not told of the time and place of the court hearing.

How do I get a restraining order?

Because getting a restraining order is a complex procedure, you should get the help of a lawyer. If you can't afford a lawyer, look under Legal Aid in the white pages of your phone book and ask how to apply for legal assistance. If you can afford a lawyer but don't know of one, try the Lawyer Referral service (also listed in the white pages).

When you get a restraining order, keep a certified copy of the order on hand to show the police if necessary.

What happens if my partner or spouse disobeys a restraining order?

You should report it to the police and to your lawyer. Your partner or spouse can be arrested and charged with violating the order. If convicted, your partner or spouse may have to pay a fine or serve a jail term of up to six months.

What if I want to cancel or change the restraining order?

You will have to apply to the court to cancel the order or make any changes to it.

What is the Central Registry of Protection Orders?

Protection orders issued by the B.C. courts are now automatically registered at the Central Registry of Protection Orders. The registry is a confidential computer database of protection orders - civil restraining orders and criminal peace bonds - issued by the B.C. courts. Only police officers in the course of their duties have the authority to request information from the registry. They can phone a central number at any time during the day or night to receive up-to-date, accurate information on the slams of registered protection orders.

Anyone with a protection order dated before November 16, 1995, who wants the order registered may contact the nearest court registry at 1-800-563-0808 to make the necessary arrangements.

Resource person or organization to contact for further information

VICTIM INFORMATION LINE Toll Free: 1-800-563-0808
Additional copies of this brochure are available by writing or faxing,:
Ministry of Attorney General
Communications and Education Division 10lh Floor, 1001 Douglas Street
Victoria, B.C. VSV 1 X4
Fax: 356-9037

Selected sources

1. **"Peace Bonds and Restraining Orders: Protecting yourself from Relationship Violence"** produced by B.C. Ministry of the Attorney General. (March, 1996)

6. PROTECTION ORDERS UNDER THE DOMESTIC VIOLENCE ACT 1995 (NEW ZEALAND)

In the 1995 Domestic Violence Act in New Zealand, there are a number of sections setting out the scope and procedures for applying for protection orders. The following extract is taken from the text of the legislation.

Text. Section 14 sets out the scope of protection orders:

14. Power to make protection order--- (1) The Court may make a protection order if it is satisfied that---

(a) The respondent is using, or has used, domestic violence against the applicant, or a child of the applicant's family, or both; and

(b) The making of an order is necessary for the protection of the applicant, or a child of the applicant's family, or both.

(2) For the purposes of subsection (1) (a) of this section, a respondent who encourages another person to engage in behaviour that, if engaged in by the respondent, would amount to domestic violence against the applicant, or a child of the applicant's family, or both, is regarded as having engaged in that behaviour personally.

(3) Without limiting section 3 (4) (b) of this Act or the matters that the Court may consider in determining, for the purposes of subsection (1) (b) of this section, whether the making of an order is necessary for the protection of the applicant, or a child of the applicant's family, or both, where some or all of the behaviour in respect of which the application is made appears to be minor or trivial when viewed in isolation, or appears unlikely to recur, the Court must nevertheless consider whether the behaviour forms part of a pattern of behaviour in respect of which the applicant, or a child of the applicant's family, or both, need protection.

(4) For the avoidance of doubt, an order may be made under subsection (1) of this section where the need for protection arises from the risk of domestic violence of a different type from the behaviour found to have occurred for the purposes of paragraph (a) of that subsection.

(5) Without limiting the matters that the Court may consider when determining whether to make a protection order, the Court must have regard to ....

(a) The perception of the applicant, or a child of the applicant's family, or both, of the nature and seriousness of the behaviour in respect of which the application is made; and

(b) The effect of that behaviour on the applicant, or a child of the applicant's family, or both.

15. Existence of other proceedings not to preclude granting of protection order---A Court must not decline to make a protection order merely because of the existence of other proceedings (including, but not limited to, proceedings relating to custody of, or access to, a minor) between or relating to the parties, whether or not those proceedings also relate to any other person.

16. Protection of persons other than applicant---(1) Where the Court makes a protection order, that order applies for the benefit of any child of the applicant's family.

(2) Subject to subsection (3) of this section, where the Court makes a protection order, it may direct that the order also apply for the benefit of a particular person with whom the applicant has a domestic relationship.

(3) No direction may be made pursuant to subsection (2) of this section in respect of a person unless the Court is satisfied that---

(a) The respondent is engaging, or has engaged, in behaviour that, if the respondent and the person were or, as the case may be, had been in a domestic relationship, would amount to domestic violence against the person; and

(b) The respondent's behaviour towards the person is due, in whole or in part, to the applicant's domestic relationship with the person; and

(c) The making of a direction under this section is necessary for the protection of the person; and

(d) Where practicable, the person consents to the direction being made.

(4) Subsections (2) to (5) of section 14 of this Act apply, with the necessary modifications, in respect of an application for a direction pursuant to subsection (2) of this section.

19. Standard conditions of protection order---(1) It is a condition of every protection order that the respondent must not---

(a) Physically or sexually abuse the protected person; or

(b) Threaten to physically or sexually abuse the protected person; or

(c) Damage, or threaten to damage, property of the protected person; or

(d) Engage, or threaten to engage, in other behaviour, including intimidation or harassment, which amounts to psychological abuse of the protected person; or

(e) Encourage any person to engage in behaviour against a protected person, where the behaviour, if engaged in by the respondent, would be prohibited by the order

(2) Without limiting subsection (1) of this section, but subject to section 20 of this Act, it is a condition of every protection order that at any time other than when the protected person and the respondent are, with the express consent of the protected person, living in the same dwelling house, the respondent must not,-

(a) Watch, loiter near, or prevent or hinder access to or from, the protected person's place of residence, business, employment, educational institution, or any other place that the protected person visits often; or

(b) Follow the protected person about or stop or accost the protected person in any place; or

(c) Without the protected person's express consent, enter or remain on any land or building occupied by the protected person; or

(d) Where the protected person is present on any land or building, enter or remain on that land or building in circumstances that constitute a trespass; or

(e) Make any other contact with the protected person (whether by telephone, correspondence, or otherwise), except such contact---

(i) As is reasonably necessary in any emergency; or

(ii) As is permitted under any order or written agreement relating to custody of, or access to, any minor; or

(iii) As is permitted under any special condition of the protection order; or

(iv) As is necessary for the purposes of attending a family group conference within the meaning of section 2 of the Children, Young Persons, and Their Families Act 1989.

(3) Where, pursuant to a direction made under section 17 of this Act, a protection order applies against an associated respondent, the provisions of this section apply, with all necessary modifications, in respect of the associated respondent.

(4) References in subsection (2) of this section to the express consent of a protected person include the express consent of a person (other than the respondent or, as the case may be, the associated respondent) who is specified, in a special condition of the protection order imposed pursuant to section 27 (3) of this Act, as a person who is entitled to consent, on the protected person's behalf, in relation to the matter, and to withdraw such consent. Cf. 1982, No. 120, ss. 7, 16

27. Court may impose special conditions---(1) Where the Court makes a protection order, it may impose any conditions that are reasonably necessary, in the opinion of the Court, to protect the protected person from further domestic violence by the respondent, or the associated respondent, or both.

(2) Without limiting subsection (1) of this section, a condition imposed under subsection (1) of this section may relate to---

(a) The manner in which arrangements for access to a child are to be implemented:

(b) The manner and circumstances in which the respondent or the associated respondent, or both, may make contact with the protected person.

(3) Without limiting subsection (1) of this section, the Court may impose, as a condition of a protection order, a condition specifying a person who, for the purposes of sections 19 (2), 20, and 28 of this Act, is entitled---

(a) To consent on behalf of the protected person; and

(b) To withdraw such consent.

(4) Where the Court imposes a condition under this section, it may specify the period during which the condition is to have effect

(5) In the absence of a direction under subsection (4) of this section, and subject to section 28 of this Act, a special condition has effect for the duration of the protection order, unless sooner varied or discharged.

28. Further provisions relating to certain special conditions---(1) This section applies to any special condition of a protection order, where the special condition is inconsistent with the protected person and the respondent living in the same dwelling house.

(2) Subject to sections 27 (4) and 46 of this Act, a special condition to which this section applies has effect except while the protected person and the respondent are, with the express consent of the protected person, living in the same dwelling house.

(3) A special condition to which this section applies is automatically suspended for any period during which the protected person and the respondent, with the express consent of the protected person, live in the same dwelling house.

(4) Where a special condition to which this section applies is suspended in accordance with subsection (3) of this section, and the protected person subsequently withdraws his or her consent to the respondent living in the same dwelling house, then (unless the protection order has been sooner discharged, and subject to sections 27 (4) and 46 of this Act) the special condition automatically revives.

(5) A special condition to which this section applies---

(a) May become suspended in accordance with subsection (3) of this section on 1 or more occasions:

(b) May revive in accordance with subsection (4) of this section on 1 or more occasions.

(6) Where, pursuant to a direction made under section 17 of this Act, a protection order applies against an associated respondent, the provisions of this section apply, with all necessary modifications, in respect of the associated respondent.

(7) References in this section to the consent of a protected person, or to the withdrawal of a protected person's consent, include, as the case requires,---

(a) The consent of a person (other than the respondent or, as the case may be, the associated respondent) who is specified, in a special condition of the protection order imposed pursuant to section 27 (3) of this Act, as a person who is entitled to consent, on the protected person's behalf, in relation to the matter:

(b) The withdrawal of consent by such a person.

49. Offence to contravene protection order---(1) Every person commits an offence who, without reasonable excuse,---

(a) Does any act in contravention of a protection order; or

(b) Fails to comply with any condition of a protection order, not being a condition to which paragraph (c) of this subsection relates; or

(c) Fails to comply with a direction made under section 32 (1) or section 32 (2) of this Act to attend a programme on such occasions as are specified in accordance with section 33 of this Act.

(2) Subject to subsection (3) of this section, every person who commits an offence against subsection (1) of this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding $5,000.

(3) Every person who commits an offence against paragraph (a) or paragraph (b) of subsection (1) of this section is liable, where---

(a) That person has previously been convicted on at least 2 different occasions of a qualifying offence; and

(b) At least 2 of those qualifying offences were committed not earlier than 3 years before the commission of the offence being dealt with by the Court,---on conviction on indictment, to imprisonment for a term not exceeding 2 years.

(4) For the purposes of subsection (3) of this section, a qualifying offence is---

(a) An offence against paragraph (a) or paragraph (b) of subsection (1) of this section; or

(b) An offence against section 18 of the Domestic Protection Act 1982.

50. Power to arrest for breach of protection order---(1) Where a protection order is in force, any member of the Police may arrest, without warrant, any person whom the member of the Police has good cause to suspect has committed a breach of the order (other than a breach that constitutes an offence against section 49 (1) (c) of this Act).

(2) In considering whether or not to arrest a person pursuant to subsection (1) of this section, the member of the Police must take the following matters into account:

(a) The risk to the safety of any protected person if the arrest is not made;

(b) The seriousness of the alleged breach of the protection order;

(c) The length of time since the alleged breach occurred;

(d) The restraining effect on the person liable to be arrested of other persons or circumstances.

51. Release of person arrested---(1) Subject to subsection (2) of this section, where a person is arrested pursuant to section 50 of this Act and charged with an offence against section 49 of this Act, the person must not be released on bail by a member of the Police pursuant to section 51 of the Summary Proceedings Act 1957 during the 24 hours immediately following the arrest.

(2) Nothing in subsection (1) of this section limits or affects the obligation of the Police to bring a person who is charged with an offence before a Court as soon as possible.

(3) Where a person to whom subsection (1) of this section applies is not brought before a Court during the 24 hours immediately following the arrest, the person may, at the expiry of that period, be released on bail by a member of the Police pursuant to section 51 of the Summary Proceedings Act 1957.

(4) Where a person to whom subsection (1) of this section applies has also been charged with another or other offences arising out of the same incident, the person must not be released on bail by a member of the Police pursuant to section 51 of the Summary Proceedings Act 1957 in respect of any of those offences during the 24 hours immediately following the arrest for an offence against subsection (1) (a) or subsection (1) (b) of section 49 of this Act.

52. Application for occupation order---My person (other than a child) who is or has been in a domestic relationship with another person may apply for an order granting the applicant the right to live in a dwelling house which, at the time the order is made, either party to the proceedings owns or in which either has a legal interest (including, but not limited to, a tenancy).

53. Power to make occupation order---(1) Subject to section 74 of this Act and to subsection (2) of this section, on hearing an application for an occupation order, the Court may, notwithstanding anything in the Matrimonial Property Act 1976, make an order granting to the applicant the right to personally occupy a specified dwelling house.

(2) The Court may make an order under subsection (1) of this section only if it is satisfied that the order---
(a) Is necessary for the protection of the applicant; or
(b) Is in the best interests of a child of the applicant's family.

(3) An order may be made under this section in respect of a dwelling house whether or not---
(a) The parties have ever lived in the same dwelling house, whether in the dwelling house to which the order relates or any other dwelling house; or
(b) Either party lives in the dwelling house at the time the order is made.

4) In determining whether to make an order under this section, the Court must have regard to the reasonable accommodation needs of all persons who may be affected by the order.

(5) An order made under this section may be---
(a) For such period or periods; and
(b) On such terms and conditions relating to the occupation of the dwelling house to which the order relates,---
as the Court thinks fit.

57. Power to make tenancy order---(1) Subject to section 74 of this Act and to subsection (2) of this section, on hearing an application for a tenancy order, the Court may, notwithstanding anything in the Matrimonial Property Act 1976, make an order vesting in the applicant the tenancy of a specified dwelling house.

(2) The Court may make an order under subsection (1) of this section only if it is satisfied that the order---
(a) Is necessary for the protection of the applicant; or
(b) Is in the best interests of a child of the applicant's family.

(3) In determining whether to make an order under this section, the Court must have regard to the reasonable accommodation needs of all persons who may be affected by the order.

88. Copies of orders to be sent to Police---(1) On the making of a temporary order or a final order under this Act (including any order varying or discharging an order made under this Act or any order made in substitution for any such order), the Registrar of the Court in which the order is made must ensure that a copy of the order is made available, without delay, to the District Commander at the appropriate Police District Headquarters.

(2) Where a copy of an order is made available to a District Commander in accordance with subsection (1) of this section, the District Commander must ensure that a copy of that order, or a copy of that copy, is made available, without delay, to the officer in charge of the Police station nearest to where the protected person or, as the case requires, each protected person, resides.

(3) For the purposes of this section, a copy of an order, or a copy of a copy of an order, may be made available in any of the following ways:
(a) By sending the copy by means of electronic transmission (whether by way of facsimile transmission, electronic mail, or other similar means of communication):
(b) By entering the copy on a database maintained in electronic form, where that database may be accessed by the person or persons to whom the copy is required to be made available
(c) By making the copy available in such manner as is prescribed by regulations made under this Act:
(d) By making the copy available in such other manner as is appropriate in the circumstances.

7. EXAMPLES OF TERMS OF PROTECTION ORDERS: COMPARATIVE DISCUSSION BY THE SOUTH AFRICAN LAW COMMISSION (SOUTH AFRICA)

The South African Law Commission in 1996 undertook a review of the Prevention of Family Violence Act 133 of 1993 and held a consultation and compared other jurisdictions before developing a proposed legislation - the Domestic Violence Bill. The following extract is taken from the South African Law Commission, Discussion Paper 70 Project 100 Domestic Violence.

Text. The South African Law Commission makes the following recommendation
(a) In addition to the power to exclude the respondent from the shared residence, empower the court to prohibit the respondent to
(i) enter a specified part of the shared residence or a specified area in which the shared residence is situated; or
(ii) prevent the applicant or any relevant child [see recommendation 17(e)] who ordinarily lives or lived in the shared residence from entering or remaining in the shared residence or a specified part of the shared residence.
(b) Provide that the court may grant an intedict against the respondent prohibiting the respondent to
(i) physically or sexually abuse the applicant;
(ii) threaten to physically or sexually abuse the applicant;
(iii) intimidate the applicant;
(iv) harass the applicant;
(v) damage property in which the applicant may have an interest;
(vi) threaten to damage property in which the applicant may have an interest;
(vii) enter, watch, loiter near, or prevent or hinder access to or from, the applicant's place of residence, business, employment, educational institution, or any other place that the applicant visits often;
(viii) follow the applicant or stop or approach the applicant in any place;
(ix) make any contact with the applicant by telephone or any form of written communication; or
(x) enlist the help of another person to act in any of the above ways.
(c) Retain the power to prohibit any other act specified in the interdict.
(d) Empower the court to order that all or any of the prohibitions or conditions contained in the interdict apply for the benefit of any relevant child.

Evaluation. The Law Commission made the following analysis. The only relief provided for in the 1993 Act is contained in section 2 in terms of which an interdict may be granted enjoining the respondent -
(a) not to assault or threaten the applicant or a child living with the parties or with either of them;
(b) not to enter the matrimonial home or other place where the applicant is resident, or it specified part of such home or place or a specified area in which such home or place is situated;
(c) not to prevent the applicant or a child who ordinarily lives
in the matrimonial home from entering and remaining in the matrimonial home or a specified part of the matrimonial home; or
(d) not to commit any other act specified in the interdict.

In terms of section 2(2)(b) of the Act the execution of a warrant for the arrest of the respondent must be suspended subject to such conditions regarding compliance with the interdict as the judge or magistrate may seem fit.

The issue of the definition of family violence ties in with the issue of the scope of interdicts and for the purpose of this analysis regard should be had to the relevant opinions and responses referred to in the discussion on the definition of family violence.

The Law Commission included a comparative survey of laws in the following jurisdictions:

(i) England: Under existing English law the precise scope of a non-molestation injunction can be tailored to the requirements of the particular case. Traditionally, a common form of order restrains the respondent from assaulting, molesting, or otherwise interfering with the applicant. A general prohibition can be followed by a more precise injunction against specific kinds of behaviour complained of. The Law Commission considers it important that orders should retain this dual capability. Where it is obvious that there should be a limitation on a particular sort of behaviour, the order should be specific so that the respondent is left in no doubt about what he must stop doing. However, the order also needs to be sufficiently general to cover any objectionable behaviour in which the

respondent may subsequently decide to indulge. It is therefore recommended that the power to make non-molestation orders be so framed as to make it clear that the order is a flexible one, capable of being tailored to the requirements of the particular case, but the court should also be able to prohibit molestation in its general form if the case so demands.

(ii) Australia: In most jurisdictions the court has flexible powers to tailor a protection order to meet not just violent conduct but harassing and pestering conduct which may not in itself be criminal. The Australian Capital Territory / Northern Territory it is possible to order that the respondent not approach within a certain distance of the person for whose protection the order is made. New South Wales unless otherwise ordered, every order is taken to prohibit stalking or intimidation. Intimidation means conduct amounting to harassment or molestation, the making of repeated telephone calls or any conduct that causes a reasonable apprehension of injury to a person, or of violence or damage to any person or property. Queensland, the order must impose a condition that the respondent be of good behaviour and not commit violence against the aggrieved spouse. The order may also include a condition excluding the violent party from specified property or preventing him or her from approaching the aggrieved party or any relative or associate of the aggrieved party. Victoria, conditions which may be imposed include restricting or prohibiting access to premises, keeping the defendant a specified distance from the victim, excluding the defendant from a specified locality, such as a suburb, prohibiting the defendant from making contact, for example, by telephone.

(iii) Canada: Alberta, referring to no-contact provisions, the Alberta Law Reform Institute observes that the clearer and the more inflexible the primary no-contact provision is, the less difficulty both the police and the litigants have in understanding and complying with the terms of the order. It is recommended that the legislation should empower the court to make an order prohibiting the respondent from making direct or indirect contact with the applicant. For further clarity and to assist in compliance with and enforcement of the order the meaning of "no-contact" should be explained. The order should give examples of the sorts of things that it includes in the meaning of contact. It should not, however, limit the meaning of "no-contact" to the examples set forth in the order. Things listed in the meaning of "no-contact" should include:
(a) Telephoning the applicant at the applicant's residence, place of employment or school.
(b) Going to the applicant's place of employment, school or residence.
(c) Approaching the applicant if the respondent accidentally sees the applicant in a public place.
(d) Watching the applicant or the applicant's residence, place of employment or school from a distance.
(e) Communicating with the applicant in any other way including but not limited to mail, fax, telegram, or any other form of written communication.
(f) Communicating or attempting to communicate with the applicant in any of the above ways by enlisting the help of any other person.

While it would seem preferable from an enforcement point of view to have a very comprehensive and inflexible no-contact provision, the Alberta Law Reform Institute concedes that in some instances such an order would not be feasible. It is recommended that where the circumstances of the case lead to the inference that a protection order is needed but where, as a matter of practical necessity or at the request of the applicant, the parties must, or could potentially desire to, have safe contact with one another, the order should be very specific structuring the terms of that contact to ensure that it does not:
(a) provide an opportunity for continued abuse; or
(b) make it impossible for the police to effectively enforce the order.

Saskatchewan, the Saskatchewan Victims of Domestic Violence Act contains the following provisions remaining the respondent from:
(a) communicating with or contacting the victim and other specified persons;
(b) attending at or near or entering any specified place that **is** attended regularly by the victim or other family members, including the residence, property, business, school, or place of employment of the victim and other family members;
(c) making any communication likely to cause annoyance or alarm to the victim, including personal, written or telephone contact with the victim and other family members or their employers, employees or co-workers or others with whom communication would likely cause annoyance or alarm to the victim;
(d) taking, converting, damaging or otherwise dealing with property that the victim my have an interest in.

Nova Scotia, the proposed Nova Scotia legislation provides for orders restraining the respondent from:
(a) subjecting the victim to domestic violence;

(b) harassing the victim;
(c) entering the residence, property, school or place of employment of the victim or other family or household members of the victim and requiring the respondent to stay away from any specified place that is named in the order and is frequented regularly by the victim or other family or household members;
(d) making any communication likely to cause annoyance or s/arm including but not limited to personal, written or telephone contact with the victim or other family members or their employers, employees or fallow workers or others with whom communication would be likely to cause annoyance or alarm to the victim;
(e) taking, converting or damaging property in which the victim may have an interest.

(iv) New Zealand: It is a standard condition of every protection order that the respondent must not:
(a) physically or sexually abuse the protected person;
(b) threaten to physically or sexually abuse the protected person;
(c) damage, or threaten to damage, property of the protected person;
(d) engage, or threaten to engage, in other behaviour, including intimidation or harassment, which amounts to psychological abuse of the protected person; or
(e) encourage any person to engage in behaviour against a protected person, where the behaviour, if engaged in by the respondent, would be prohibited by the order.

It is a condition of every protection order (referred to as the non-contact provision) that at any time other than when the protected person and the respondent are living in the same dwelling house, the respondent must not:
(a) watch, biter near, or prevent or hinder access to or from, the protected person's place of residence, business, employment, educational institution, or any other place that the protected person visits often;
(b) follow the protected person about or stop or accost the protected person in any place;
(c) without the protected person's express consent, enter or remain on any land or building occupied by the protected person;
(d) where the protected person is present on any and or building, enter or remain on that land or building in circumstances that constitute a trespass; or
(e) make any other contact with the protected person (whether by telephone, correspondence, or otherwise), except such contact:

(i) as is reasonably necessary in any emergency;

(ii) as is permitted under any order or written agreement relating to custody of, or access to, any minor; or

(iii) as is permitted under any special condition of the protection order.

The court may in addition impose any special conditions that are reasonably necessary to protect the protected person from further domestic violence by the respondent.

(v) USA: Model Code on Domestic and Family Violence, the court my grant the following relief:
(a) enjoin the respondent from threatening to commit or committing acts of domestic or family violence against the petitioner;
(b) prohibit the respondent from harassing, annoying, telephoning contacting, or otherwise communicating with the petitioner, directly or indirectly;
(c) order the respondent to stay away from the residence, school, place of employment of the petitioner, or any specified place frequented by the petitioner;
(d) order such other relief as the court deems necessary to protect and provide for the safety of the petitioner.

The Law Commission of South Africa see the inherent danger of an exhaustive list of prohibitions is that some kind of abusive behaviour might not be covered. With a view to ensuring that the legislation extends maximum protection to victims of domestic violence, the retention of a flexible power (section 2(IX d) of the Act) to tailor the prohibitions to meet conduct which may not be included in the list, appears to be unavoidable. This fact is recognised by the Alberta Law Reform Institute.

The New Zealand Domestic Violence Act empowers the court to impose any special conditions that are reasonably necessary to protect the protected person from further domestic violence by the respondent. In terms of the Model Code on Domestic and Family Violence the *court* may order such other relief as the court deems necessary to protect and provide for the safety of the petitioner. A provision of this nature would empower the court to devise conditions for "safe" contact with the applicant where, for whatever reason, such contact is necessary.

The domestic sphere in which domestic violence takes place provides the basis for extending protection to persons

other than the applicant. Children would obviously require such protection. Although, in terms of the recommendation in paragraph 3.2.35 (b) above, any other person who has a material interest in the matter would be entitled to apply for an interdict on behalf of the child, the "paramount importance of a child's best interests" dictates that the court should of its own accord make orders for the protection of a child. It is clearly desirable for the court to have a discretion to make orders in relation to as wide a range of children as possible. The Commission is impressed by the definition in the English Family Law Act 1996 which defines a "relevant child" as any child whose interests the court considers relevant.

8. EXAMPLES OF TERMS OF PROTECTION ORDERS AND THE EXCLUSION OF THE RESPONDENT FROM THE MATRIMONIAL HOME: COMPARATIVE DISCUSSION BY THE SOUTH AFRICAN LAW COMMISSION (SOUTH AFRICA)

The South African Law Commission in 1996 undertook a review of the Prevention of Family Violence Act 133 of 1993 and held a consultation and compared other jurisdictions before developing a proposed legislation - the Domestic Violence Bill. One of the issues discussed is whether the exclusion of the respondent from the matrimonial home should be allowed and under what circumstances?

Text. The South African Law Commission recommended that the legislation:
(a) Empower the court to exclude the respondent from the shared residence. ["Shared residence" is to be defined as the residence in which the applicant and respondent (whether the same or opposite gender) live or lived together in a marriage relationship or in a relationship in the nature of marriage, although they are not, or were not, married to each other, or are not able to be married to each other, regardless of whether the parties are solely or jointly entitled to occupy the residence.]
(b) Provide that orders of this nature may only be made if it appears likely that the applicant or any relevant child [see recommendation 17(e)] will suffer significant harm if an order is not made and that such harm will be greater than the harm which the respondent will suffer if the order is made.
(c) Empower the court to impose on either party obligations regarding the discharge of rent or mortgage instalments.
(d) Provide that the discretionary power in (c) may only be exercised after taking into account the parties' financial resources and any financial obligations which they have or are likely to have in the foreseeable future, including any financial obligations to each other or to any child.

Evaluation. The South African Law Commission did a comparative study on how this issue is dealy with in various other jurisdictions:
(i) England: The Law Commission (England) recommends that the court should have the power to make an occupation order with a variety of possible terms. Regulatory orders (orders which control the exercise of existing rights) available would, inter alia, be those:

(a) requiring one party to leave the home;
(b) suspending occupation rights and/or prohibiting one party from entering or re-entering the home or part of the home;
(c) requiring one party to allow the other to enter and/or remain in the home;
(d) regulating the occupation of the home by either or both of the parties;
(e) terminating occupation rights; and
(f) excluding one party from a defined area in the vicinity of the home.

The Law Commission (England) recommends that the court should have power to grant a regulatory occupation order in any case after considering all the circumstances of the case and in particular the following factors:

(a) The respective housing needs and resources of the parties and of any relevant child.
(b) The respective financial resources of the parties.
(c) The likely effect of any order, or of any decision by the court not to make an order, on the health, safety and well-being of the parties and of any relevant child.

However, the court should have a duty to make an order if it appears likely that the applicant or any relevant child will suffer significant harm if an order is not made and that such harm will be greater than the harm which the respondent or any relevant child will suffer if the order is made.

It is further recommended that the court should have the power to impose on either party obligations regarding the discharge of rent, mortgage instalments and other outgoings, where it is just and reasonable to do so. In deciding whether an order is just and reasonable, the court should take into account the parties financial resources and any financial obligations which they have or are likely to have in the foreseeable future, including any financial obligations to each other or to any relevant child.

(ii) Australia: In all jurisdictions it is possible to make an order to exclude the respondent from the home. The Australian Capital Territory / Northern Territory / Western Australia, it is possible to exclude the respondent from the home, notwithstanding any legal or equitable interest which the respondent might have in the property. New South Wales / Northern Territory / Queensland, the court must weigh up the accommodation needs of the parties, the effect which such an order will have on any children and the consequences for the victim and any children if such an order is made. In Queensland any existing orders relating to guardianship, custody or access may also be taken into account.

(iii) Canada: Alberta, according to the Alberta Law Reform Institute, a factor which would suggest a need for allowing exclusion of abusive individuals from the residence is the demand on public funds created by victims of domestic abuse having to flee from their residences to shelters. Where shelters are forced to turn away a large number of the victims due to lack of funds and lack of space, it would seem that anything that could provide an alternative to the victims having to flee to shelters would be desirable. Also, where the perpetrator's abuse has made continuing cohabitation unsafe, it is certainly arguable that it should be the perpetrator, not the victim, who should bear the burden of the upsetting of the status quo brought about by the abuse. The Law Reform Institute states that there are concerns as to the suitability of the remedy of exclusion from residence. The view which opposes the inclusion of such a remedy within a domestic abuse statute focuses on the invasive nature of the remedy and the extreme consequences that it will have for a respondent both in terms of the violation of property rights and the violation of the individual's right to peaceful and secure enjoyment of their home. Such a remedy could also give rise to opportunities for vexatious litigation by vindictive applicants. The concern to protect victims of abuse could be harnessed by mischievous litigants to obtain the advantage in property disputes. By allowing such a remedy, one could be allowing public outrage at domestic abuse to be used to create a legal carte blanche to be given to anyone alleging abuse. A further concern with the remedy it that it could obscure the need for funding to battered women's shelters. The existence of the remedy could create a false perception that safe houses for victims of domestic abuse were no longer necessary.

As regards orders permitting the respondent to remain in the same residence as the applicant but limiting the respondent's use of the residence, the Alberta Law Reform Institute notes that there are obvious difficulties surrounding the compliance and enforcement of such an order. In a family situation there would generally be no external observer to monitor the respondent's compliance with the order. Unless the breach of the order were also to constitute an offence such as assault, there would be a great deal of difficulty in determining after the fact whether a breach of the terms of the order had taken place. It is therefore recommended that a power to grant orders restricting the use of a residence should not be created.

Nova Scotia / Saskatchewan / British Columbia, Proposed Nova Scotia legislation provides that the court may make an order "granting the victim exclusive occupation of the residence regardless of whether the residence is jointly or solely owned by the parties or jointly or solely leased by the parties". Saskatchewan and British Columbia have similar provisions. Proposed Nova Scotia legislation also provides for an order which permits the victim and respondent to occupy the same premises but limits the respondent's use thereof, provided that the court is satisfied:

(a) that the victim voluntarily requests such an order;
(b) the victim is informed by the court that the order may not provide the same protection as an order excluding the respondent from the premises and may be difficult to enforce; and
(c) satisfactory conditions are imposed on the respondent to ensure against the repetition of domestic violence and which are agreed upon by the parties.

(iv) New Zealand: The court may make an occupation order granting the applicant the right to personally occupy a specified dwelling house, or an order vesting in the applicant the tenancy of a specified dwelling house, if it is satisfied that the order is necessary for the protection of the applicant or is in the best interests of a child of the applicant's family. A temporary occupation order or a tenancy order may be made on application without notice if the court is satisfied that the respondent has physically or sexually abused the applicant or a child of the applicant's family, and the delay that would be caused by proceedings on notice would or might expose the applicant or a child

of the applicant's family to physical or sexual abuse.

(v) USA: Model Code on Domestic and Family Violence, a court may remove and exclude the respondent from the residence of the petitioner, regardless of ownership of the residence. A respondent may be ordered to pay rent or make payment on a mortgage on the petitioner's *residence*.

The Alberta Law Reform Institute notes that all the American codes, except that of Delaware, make provision for an order excluding the perpetrator of domestic abuse from the residence. Some States simply provide that the *court* may order a respondent to vacate the home. Others note that the order may issue whether the residence is jointly or solely owned or leased by the parties.

The South African evaluates all submissions and examples and concludes that the approach allowing for exclusion of respondents from the matrimonial home appears to command substantial support. All the foreign jurisdictions surveyed have legislation to this effect. Although it is conceded that the inclusion of such a remedy in the legislation might have extreme *consequences* for a respondent, it seems dear that in cases of domestic violence an exclusion order will often be the only way of giving the applicant effective protection. Where there is a serious risk of physical violence, protection of the applicant and children should take priority over property rights.

Eviction from a home in consequence of a court order made after considering all the relevant circumstances is conceivable in terms of the Constitution, 1996, but no legislation may permit arbitrary evictions. Because of the seriousness of the remedy, it is considered imperative that the legislation should provide for an appropriate criterium to be applied by the courts. The Commission is impressed by the recommendation made by the Law Commission (England) that the court should have a duty to make an order if it appears likely that the applicant or any relevant child will suffer significant harm if an order is not made and that such harm will be greater than the harm which the respondent will suffer if the order is made.

The issue of the continuance of rent or mortgage payments by either the applicant or the respondent after an order preventing the respondent from entering the residence has taken effect, needs to be clarified. In principle there is no reason why an applicant who is occupying property which the respondent is prim facie entitled to occupy, whether solely or jointly, should not in an appropriate case be ordered to compensate the respondent. On the other hand, in times of crisis, financial matters are often a cause of great concern to applicants. In such circumstances, it seems fair that where the respondent has created a violent home environment, he should continue to pay rent or payments on mortgage bonds on the property.

In appropriate cases the court should therefore have the power to impose on either party obligations regarding the discharge of rent or mortgage instalments. It is further suggested that it would promote consistency if it is provided that these discretionary powers should only be exercised after taking into account the parties' financial resources and any financial obligations which they have or are likely to have in the foreseeable future, including any financial obligations to each other or to any child. { 315 }

9. PROPOSED LEGISLATION PRIMARILY DEALING WITH PROTECTION IN DOMESTIC VIOLENCE CASES: DOMESTIC ABUSE ACT: DRAFTED BY THE ALBERTA LAW REFORM INSTITUTE (CANADA)

The Alberta Law Reform Institute drafted a proposed legislation that was agreed to by an informal working group at the conclusion of its meetings. The following is the text of this proposed legislation which primarily deals with protection in domestic violence cases.

Text

In this Act,

(a) "clerk" means the clerk of the court;

(b) "cohabitants" means

(i) persons who have resided together or who are residing together in a family relationship, spousal relationship or intimate relationship, or

(ii) persons who are the parents of one or more children, regardless of their marital status or whether they have

lived together at any time;

(c) "court" means

(i) the Provincial Court, or

(ii) the Court of Queen's Bench;

(c.1) "claimant" means a cohabitant who claims to have been subjected to domestic violence by another cohabitant and in respect of whom an application for a protection order has been made;

(c.2)"designated Justice of the Peace" means a Justice of the Peace designated by the Chief Judge of the Provincial Court for the purposes of this Act;

(d) "domestic abuse" includes

(i) any intentional or reckless act or omission that causes injury or causes damage to property, the purpose of which is to intimidate a cohabitant,

(ii) any act or threatened act that causes a reasonable fear of injury or of damage to property, the purpose of which is to intimidate a cohabitant,

(iii) forced confinement,

(iv) sexual abuse,

(v) emotional abuse, and

(vi) financial abuse;

(e) "emotional abuse" means

(i) a pattern of behaviour of any kind the purpose of which is to deliberately undermine the mental or emotional well-being of a co-habitant, and

(ii) making repeated threats to cause extreme emotional pain to the cohabitant or to the cohabitant's children, family or friends;

(e. 1) "financial abuse" means behaviour of any kind the purpose of which is to control, exploit or limit a cohabitant's access to financial resources so as to ensure the financial dependency of the cohabitant;

(f) "judge" means a judge of the court;

(g) "protection order" means an order made under section 2;

(h) "residence" means a place where a claimant normally resides, and includes a residence that a claimant has vacated due to domestic abuse;

(i) "respondent" means any person against whom an order is sought or made;

(j) "sexual abuse" means sexual contact of any kind that is coerced by force or threat of force.

2.(1) Where, on application, the court determines that domestic abuse has occurred, it may grant such relief necessary to prevent further domestic violence and in doing so may issue a protection order containing any or all of the following provisions:

(a) a provision restraining the respondent from contacting the claimant or associating in any way with the claimant and from subjecting the claimant to domestic abuse;

(b) a provision granting the claimant and other family members of the claimant exclusive occupation of the residence for a specified period, regardless of whether the residence is jointly or solely owned by the parties or jointly or solely leased by the parties;

(c) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the claimant or other family members, including the residence, property, business, school or place of employment of the claimant and other family members;

(d)a provision restraining the respondent from making any communication, including personal, written or telephone contact or contact by any other communication device, either directly or through the agency of another person, with the claimant and other family members or their employers, employees, co-workers or other specified persons;

(e) a provision directing a peace officer to remove, immediately or within a specified time, the respondent from the residence;

(f) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence to supervise the removal of personal belongings in order to ensure the protection of the claimant;

(g) a provision requiring the respondent to pay emergency monetary relief to the claimant and any child of the claimant or any child who is in the care and custody of the claimant, a provision requiring the respondent to pay maintenance on an interim basis to the claimant and any child of the claimant or any child who is in the care and custody of the claimant, until such time as an obligation for maintenance and support may be determined any other Act of the Legislature or the Parliament of Canada;

(h) a provision requiring the respondent to pay the victim reimbursement for monetary losses suffered by the claimant and any child of the claimant or any child who is in the care and custody of the claimant as a direct result of the domestic abuse, including loss of earnings or support, medical and dental expenses, out-of-pocket

losses for injuries sustained, moving and accommodation expenses, legal expenses and costs of an application pursuant to this Act;
(i) a provision granting either party temporary possession of specified personal property, including a vehicle, chequebook, bank cards, children's clothing, medical insurance cards, identification documents, keys or other necessary personal effects;
(j) a provision restraining the respondent from taking, converting, damaging or otherwise dealing with property that the claimant may have an interest in;
(l) a provision requiting the respondent to post any bond that the court considers appropriate for securing the respondent's compliance with the terms of the order;
(m) any other provision that the court considers appropriate.

(2) Where there is no existing order relating to custody and access of a child of the claimant, then, in addition to the relief that the court may grant under subsection (1), the court may
(a) make an order awarding temporary custody of a child and in making such an order the paramount consideration of the court is the best interests and safety of the child and the claimant;
(b) make an order providing for access to a child provided that
(i) the order protects the safety and well being of the claimant and the child and specifies the place and frequency of visitation, and
(ii) the order does not compromise any other remedy provided by the court by requiring or encouraging contact between the claimant and the respondent,

(3) An order made under subsection (2) may include any or all of the following:
(a) the designation of a place of visitation other than the claimant's residence;
(b) specifying the logistics of any access granted to the respondent to a child in the custody of the claimant to ensure that the protection of the claimant is not compromised by the exercise of such access;
(b. 1) make an order prohibiting contact between the respondent and the child where the child is at serious risk of harm from the respondent;
(c) requiring supervision of access by the respondent and setting out the logistics for the exercise of the supervised access where the child is at some risk of harm from the respondent;
(d) requiring the respondent to bear the cost of supervised access.

3.(1) A protection order may be granted ex parte by a designated Justice of the Peace, if the designated Justice of the Peace determines that
(a) domestic abuse has occurred, and
(b) by reason of seriousness or urgency, the order is required to be made to ensure the immediate protection of the claimant.

(2) In determining whether an order should be made, the designated Justice of the Peace shall consider, but is not limited to considering, the following:
(a) the nature of the domestic abuse;
(b) the history of domestic abuse by the respondent towards the claimant;
(c) the existence of immediate danger to persons or property;
(d) the best interests of the claimant and any child of the claimant or any child who is in the care and custody of the claimant.

(3) A copy of the *ex parte* order is to be served as soon as practicable on the respondent in accordance with the regulations.

3.1(1) If a designated Justice of the Peace makes a protection order, the designated Justice of the peace shall, immediately after making the order, forward a copy of the order and all supporting documentation, including any notes, to the Provincial Court in the prescribed manner.

(2) Within 3 working days of receipt of the order and all supporting documentation by the Provincial Court or, if a judge of that Court is not available within that period, as soon as one can be made available, a judge shall
(a) review the order in chambers, and
(b) confirm the order where the judge is satisfied that there was evidence before the designated Justice of the Peace to support the granting of the order.

(3) For all purposes, including appeal or variation, an order that is confirmed by a judge pursuant to subsection (2) is deemed to be an order of the Provincial Court granted on an ex parte application.

(4) Where, on reviewing the order, the judge is not satisfied that there was evidence before the designated Justice of the Peace to support the granting of the order, the judge shall direct a rehearing of the matter.

(5) Where a judge directs that a matter be reheard
(a) the clerk of the Provincial Court shall issue a summons, in the form and manner prescribed in the regulations, requiring the respondent to appear at a rehearing before the Court, and
(b) the claimant shall be given notice of the rehearing and is entitled, but not required, to attend and may fully participate in the rehearing personally or by an agent.

(6) The evidence that was before the designated Justice of the Peace shall be considered as evidence at the rehearing.

(7) At a rehearing, the onus is on the respondent to demonstrate, on a balance of probabilities, why the order should not be confirmed.

(8) Where the respondent fails to attend the rehearing, the order may be confirmed in the respondent's absence.

(9) At the rehearing, the judge may confirm, terminate or vary the order or any provision in the order.

4.(1) A provision of a protection order is not effective in relation to a person unless the person has actual notice of the provision.

(2) Notice of the provisions of a protection order may be given in accordance with the regulations.

(3) A copy of an order, or any variation of the order, and any subsequent proof of service shall be delivered, in accordance with the regulations.

4.1(1) An application for a protection order may be made by
(a) a person who claims to have been subjected to domestic abuse by a cohabitant,
(b) a member of a category of persons designated in the regulations on behalf of a person referred to in clause (a) with that person's consent, or
(c) any other person on behalf of a person referred to in clause (a) with leave of the court.

(2) An application for an order is to be in the form and manner prescribed by the regulations and may include an application by telecommunication.

6.(1) A protection order shall be made for such specified duration as may be appropriate in the *circumstances*, unless otherwise terminated or extended by further order.

(1.1) Unless otherwise provided in the order, a protection order has effect for 3 years.

(2) Subject to section 3(1), a protection order may only be varied by a judge of the same court in which the original protection order was granted.

(3) Where one or more terms of a protection order are varied, the order continues in full force and effect with regard to all other provisions.

(4) Any provision in a protection order respecting matrimonial property, maintenance, custody of children and access thereto is subject to and shall be deemed varied by any subsequent order made pursuant to any other Act of the Legislature or the Parliament of Canada.

7.(1) The clerk of the court and the designated Justice of the Peace shall keep the claimant's address confidential, unless the claimant or a person acting on the claimant's behalf consents to the giving of the address.

(3) On the request of the claimant, the court may make an order prohibiting the publication of a report of a hearing or any part of a hearing if the court believes that the publication of the report

(a) would not be in the best interests of the claimant or any child of the claimant or any child who is in the care and custody of the claimant, or
(b) would be likely to identify, have an adverse effect on or cause hardship to the claimant or any child of the claimant or any child who is in the care and custody of the claimant.

8.(1) An order does not in any manner affect the title to or an ownership interest in any real or personal property jointly held by the parties or solely held by one of the parties.

(2) Where a residence is leased by a respondent pursuant to an oral, written or implied agreement and a claimant who is not a party to the lease is granted exclusive occupation of that residence, no landlord shall evict the claimant solely on the basis that the claimant is not a party to the lease.

(3) On the request of a claimant mentioned in subsection (2), the landlord shall advise the claimant of the status of the lease and serve the claimant with notice of any claim against the respondent arising from the lease and the claimant, at his or her option, may assume the responsibilities of the respondent pursuant to the lease.

9.(1) A court may issue a warrant where, on an *ex parte* application by a person designated in the regulations, the court is satisfied by information on oath that there are reasonable grounds to believe that
(a) the person who provided the information on oath has been refused access to a cohabitant, and
(b) a cohabitant who may have been subjected to domestic abuse by a cohabitant will be found at the place to be searched.

(2) A warrant issued by a court authorizes the person named in the warrant to
(a) enter, search and examine the place named in the warrant and any connected premises,
(b) assist or examine the cohabitant, and
(c) seize and remove anything that may provide evidence that the cohabitant has been subjected to domestic abuse by a cohabitant.

10.(1) With leave of a judge of the Court of Queen's Bench, an appeal from any order made by the Provincial Court pursuant to this Act may be made to the Court of Queen's Bench on a question of law.

(2) With leave of a judge of the Court of Appeal, an appeal from any order made by the Court of Queen's Bench pursuant to this Act may be made to the Court of Appeal on a question of law.

11. An application for an order pursuant to this Act is in addition to and does not diminish any existing fight of action for a person who has been subjected to domestic abuse by a cohabitant.

12. No action lies or shall be instituted against a peace officer, a clerk or any other person for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them
(a) pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations, or
(b) in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or the regulations or any duty imposed by this Act or the regulations.

12.1 A person who makes an application knowing that it is false or malicious is guilty of an offence and is liable to a fine of not more than $10 000 or to imprisonment for a term not exceeding one year, or to both fine and imprisonment.

13. The Lieutenant Governor in Council may make regulations
(a) defining any word or phrase used in this Act but not defined in this Act;
(b) prescribing forms for the purposes of this Act;
(c) prescribing the procedures to be followed for applications, hearings and rehearings pursuant to this Act;
(d) designating persons or categories of persons who may make applications for an order on behalf of a person who claims to have been subjected to domestic abuse by a cohabitant with that person's consent;
(e) designating persons or categories of persons who may apply for a warrant pursuant to section 9;
(f) respecting the form and manner of providing any notice or summons required to be provided pursuant to this Act, including prescribing substitutional service and a rebuttable presumption of service; respecting the form

and manner in which copies of a notice referred to in section 4(3) are to be delivered and the persons to whom the notice is to be delivered.
(g) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
(h) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

14.1 *The Maintenance Enforcement Act is amended in section 1(1)*
(a) in clause (d) by adding the following after subclause (iii):
(iii.1) an amount payable under a protection order under the *Domestic Abuse Act,*
(b) in clause (e) by adding ", a protection order under the *Domestic Abuse Act" after* "Alberta".

15. This Act comes into force on Proclamation.

10. LEGISLATION PRIMARILY DEALING WITH PROTECTION ORDERS: VICTIMS OF DOMESTIC VIOLENCE ACT, SASKATCHEWAN (CANADA)

Victims of Domestic Violence Act, was promulgated by the Saskatchewan provincial legislature in 1994 and primarily deals with protection orders. The text is set out below.

Text
Victims of Domestic Violence Act S.S. 1994, c. V-6.02

1 This Act may be cited as *The Victims of Domestic Violence Act.*

2 In this Act:
(a) "cohabitants" means:
(i) persons who have resided together or who are residing together in a family relationship, spousal relationship or intimate relationship; or
(ii) persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time; (b) "court" means the Court of Queen's Bench;
(c) "designated justice of the peace" means a presiding justice of the peace who has been designated for the purposes of this Act;
(d) "domestic violence" means:
(i) any intentional or reckless act or omission that causes bodily harm or damage to property;
(ii) any act or threatened act that causes a reasonable fear of bodily harm or damage to property;
(iii) forced confinement; or
(iv) sexual abuse;
(e) "emergency intervention order" means an order made pursuant to section 3;
(f) "order" means an emergency intervention order or a victim's assistance order;
(g) "residence" means a place where a victim normally resides, and includes a residence that a victim has vacated due to domestic violence;
(h) "respondent" means any person against whom an order is sought or made;
(i) 'victim" means a cohabitant who has been subjected to domestic violence by another cohabitant;
(j) "victim assistance order" means an order made pursuant to section 7. 1994, c.V-6.02, s.2.

3(1) An emergency intervention order may be granted *ex parte* by a designated justice of the peace where that designated justice of the peace determines that:
(a) domestic violence has occurred; and
(b) by reason of seriousness or urgency, the order should be made without waiting for the next available sitting of a judge of the court in order to ensure the immediate protection of the victim.
(2) In determining whether an order should be made, the designated justice of the peace shall consider, but is not limited to considering, the following factors:
(a) the nature of the domestic violence;
(b) the history of domestic violence by the respondent towards the victim;
(c) the existence of immediate danger to persons or property;

(d) the best interests of the victim and any child of the victim or any child who is in the care and custody of the victim.
(3) An emergency intervention order may contain any or all of the following provisions:
(a) a provision granting the victim and other family members exclusive occupation of the residence, regardless of ownership;
(b) a provision directing a peace officer to remove, immediately or within a specified time, the respondent from the residence;
(c) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence to supervise the removal of personal belongings in order to ensure the protection of the victim;
(d) a provision restraining the respondent from communicating with or contacting the victim and other specified persons;
(e) any other provision that the designated justice of the peace considers necessary to provide for the immediate protection of the victim.
(4) An emergency intervention order may be subject to any terms that the designated justice of the peace considers appropriate.
(5) Subject to subsection 4(1), an emergency intervention order takes effect immediately 1994, c.V-6.02, s.3.

4(1) A respondent is not bound by any provision in an order until he or she has notice of that provision.
(2) Notice of the provisions of an order is to be given in the form and manner prescribed in the regulations. 1994, c.V-6.02, s.4.

5(1) Immediately after making an emergency intervention order, a designated justice of the peace shall forward a copy of the order and all supporting documentation, including his or her notes, to the court in the prescribed manner.
(2) Within three working days of receipt of the order and all supporting documentation by the court, or, if a judge is not available within that period, as soon as one can be made available, a judge shall:
(a) review the order in his or her chambers; and
(b) confirm the order where the judge is satisfied that there was evidence before the designated justice of the peace to support the granting of the order.
(3) For all purposes, including appeal or variation, an order that is confirmed by a judge pursuant to subsection (2) is deemed to be an order of the court granted on an *ex parte* application.
(4) Where, on reviewing the order, the judge is not satisfied that there was evidence before the designated justice of the peace to support the granting of the order, he or she shall direct a rehearing of the matter.
(5) Where a judge directs that a matter be reheard:
(a) the local registrar shall issue a summons, in the form and manner prescribed in the regulations, requiring the respondent to appear at a rehearing before the court; and
(b) the victim shall be given notice of the rehearing and is entitled, but not required, to attend and may fully participate in the rehearing personally or by an agent.
(6) The evidence that was before the designated justice of the peace shall be considered as evidence at the rehearing.
(7) At a rehearing, the onus is on the respondent to demonstrate, on a balance of probabilities, why the order should not be confirmed,
(8) Where the respondent fails to attend the rehearing, the order may be confirmed in the respondent's absence.
(9) At the rehearing, the judge may confirm, terminate or vary the order or any provision in the order. 1994, c.V-6.02, s.5.

6(1) At any time after a respondent has been served with an order, the court, on application by a victim or respondent named in the order, may:
(a) make changes in, additions to or deletions from the provisions contained in the order;
(b) decrease or extend the period for which any provision in an order is to remain in force;
(c) terminate any provision in an order; or
(d) revoke the order.
(2) On an application pursuant to subsection (1), the evidence before the designated justice of the peace or the court on previous applications pursuant to this Act shall be considered as evidence.
(3) The variation of one or more provisions of an order does not affect the other provisions in the order.
(4) Notwithstanding any other provision in this Act, an emergency intervention order continues in effect and is not stayed by a direction for a rehearing pursuant to section 5 or an application pursuant to subsection (1).
(5) Any provision in an order is subject to and is varied by any subsequent order made pursuant to any other Act or any Act of the Parliament of Canada. 1994, c.V-6.02, s.6.

7(1) Where, on application, the court determines that domestic violence has occurred, the court may make a victim's assistance order containing any or all of the following provisions:
(a) a provision granting the victim and other family members exclusive occupation of the residence, regardless of ownership;
(b) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the victim or other family members, including the residence, property, business, school or place of employment of the victim and other family members;
(c) a provision restraining the respondent from making any communication likely to cause annoyance or alarm to the victim, including personal, written or telephone contact with the victim and other family members or their employers, employees or co-workers or others with whom communication would likely cause annoyance or alarm to the victim;
(d) a provision directing a peace officer to remove the respondent from the residence within a specified time;
(e) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence to supervise the removal of personal belongings in order to ensure the protection of the victim;
(f) a provision requiring the respondent to pay the victim compensation for monetary losses suffered by the victim and any child of the victim or any child who is in the care and custody of the victim as a direct result of the domestic violence, including loss of earnings or support, medical and dental expenses, out-of-pocket losses for injuries sustained, moving and accommodation expenses, legal expenses and costs of an application pursuant to this Act;
(g) a provision granting either party temporary possession of specified personal property, including a vehicle, chequebook, bank cards, children's clothing, medical insurance cards, identification documents, keys or other necessary personal effects;
(h) a provision restraining the respondent from taking, converting, damaging or otherwise dealing with property that the victim may have an interest in;
(i) a provision recommending that the respondent receive counselling or therapy;
j) a provision requiring the respondent to post any bond that the court considers appropriate for securing the respondent's compliance with the terms of the order;
(k) any other provision that the court considers appropriate.
(2) A victim's assistance order may be subject to any terms that the court considers appropriate. 1994, c.V-6.02, s.7.

8(1) An application for an order may be made by:
(a) a victim;
(b) a member of a category of persons designated in the regulations on behalf of the victim with the victim's consent; or
(c) any other person on behalf of the victim with leave of the court or the designated justice of the peace. (2) An application for an emergency intervention order is to be in the form and manner prescribed by the regulations and may include an application by telecommunication.
(3) At the hearing of an application for an order, the standard of proof is to be on a balance of probabilities. 1994, c.V-6.02, s.8.

9(1) The local registrar of the court and a designated justice of the peace shall keep the victim's address confidential at the request of the victim or a person acting on the victim's behalf.
(2) The court may order that the hearing of an application or any part of a hearing be held in private.
(3) On the request of the victim, the court may make an order prohibiting the publication of a report of a hearing or any part of a hearing if the court believes that the publication of the report:
(a) would not be in the best interests of the victim or any child of the victim or any child who is in the care and custody of the victim; or
(b) would be likely to identify, have an adverse effect on or cause hardship to the victim or any child of the victim or any child who is in the care and custody of the victim. 1994, c.V-6.02, s.9.

10(1) An order does not in any manner affect the title to or an ownership interest in any real or personal property jointly held by the parties or solely held by one of the parties.
(2) Where a residence is leased by a respondent pursuant to an oral, written or implied agreement and a victim who is not a party to the lease is granted exclusive occupation of that residence, no landlord shall evict the victim solely on the basis that the victim is not a party to the lease.
(3) On the request of a victim mentioned in subsection (2), the landlord shall advise the victim of the status of the lease and serve the victim with notice of any claim against the respondent arising from the lease and the victim, at his or her option, may assume the responsibilities of the respondent pursuant to the lease. 1994, c.V-6.02, s.10.

11(1) A designated justice of the peace may issue a warrant where, on an *ex parte* application by a person designated in the regulations, the designated justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that:
(a) the person who provided the information on oath has been refused access to a cohabitant; and
(b) a cohabitant who may be a victim will be found at the place to be searched.
(2) A warrant issued by a designated justice of the peace authorizes the person named in the warrant to:
(a) enter, search and examine the place named in the warrant and any connected premises;
(b) assist or examine the cohabitant; and
(c) seize and remove anything that may provide evidence that the cohabitant is a victim.
(3) Where the person conducting the search believes on reasonable grounds that the cohabitant may be a victim, that person may remove the cohabitant from the premises for the purposes of assisting or examining the cohabitant. 1994, c.V-6.02, s. 1 1.

12 With leave of a judge of the Court of Appeal, an appeal from any order made pursuant to this Act may be made to the Court of Appeal on a question of law. 1994, c.V-6.02, s.12.

13 An application for an order pursuant to this Act is in addition t does not diminish any existing right of action for a victim. 1994, c.V-6.02 s.13.

14(1) Notwithstanding subsection 13(2) of *The Justices of the Peace 1988*, the chief judge of the Provincial Court of Saskatchewan may designate a presiding justice of the peace to hear and determine
applications pursuant to this Act.
(2) Where the chief judge designates a presiding justice of the peace hear applications pursuant to this Act, the chief judge shall specify place at which and period during which the presiding justice of the may hear those applications.
(3) The chief judge may delegate the exercise of the power to design presiding justice of the peace to hear applications pursuant to this a supervising justice of the peace appointed pursuant to *The Justice the Peace Act, 1988,* and the exercise of that power by the super/is justice of the peace is deemed to be an exercise by the chief judge. 1 c.V-6.02, s. 14.

15 No action lies or shall be instituted against a peace officer, a local registrar or any other person for any loss or damage suffered by a person reason of anything in good faith done, caused, permitted or authorized done, attempted to be done or omitted to be done by any of them:
(a) pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations; or
(b) in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or the regulations or any duty imposed by this Act or the regulations. 1994, c.V-6.02, s.15.

16 The Lieutenant Governor in Council may make regulations:
(a) defining, enlarging or restricting the meaning of any word or phrase used in this Act but not defined in this Act;
(b) prescribing forms for the purposes of this Act;
(c) prescribing the procedures to be followed for applications, hearings and rehearings pursuant to this Act;
d) prescribing the manner in which a designated justice of the peace to forward a copy of an emergency intervention order and all supporting documentation to the court:
(e) designating persons or categories of persons who may make applications for an order on behalf of a victim with the victim's consent
(f) designating persons or categories of persons who may apply for a warrant pursuant to section 11;
(g) prescribing the form and manner of providing any notice or summons required to be provided pursuant to this Act, including prescribing substitutional service and a rebuttable presumption of service;
(h) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
(i) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act. 1994, c.V-6.02, s. 16.

17 This Act comes into force on proclamation. 1994, c.V-6.02, s. 17. [Proclaimed in force February 1, 1995.]

11. THE DOMESTIC VIOLENCE (PROTECTION ORDERS) ACT, 1992 (BARBADOS) (TO BE ADDED)

12. DOMESTIC VIOLENCE ACT NO. 28 OF 1992 (BELIZE) (TO BE ADDED)

13. PUERTO RICO ACT NO. 54 OF 1989 (PUERTO RICO) (TO BE ADDED)

II. Criminal Procedure

(H) SAFETY OF VICTIMS MEASURES

Section 7(h) of the Model Strategies urges Member States to ensure the safety of victims and their families and to protect them from threats and retaliation

Examples of Promising Practices Relating to Safety of Victims Measures:

1. LEGISLATION PROVIDING PROCEDURES TO ENSURE SAFETY FOR VICTIMS: THE VICTIMS OF FAMILY VIOLENCE ACT, PRINCE EDWARD ISLAND (CANADA) .....

2. SPECIALIZED DOMESTIC VIOLENCE COURTS PROVIDE SAFETY MEASURES FOR VICTIMS - DOMESTIC VIOLENCE COURTS IN ONTARIO (CANADA) .....

3. SPECIALISED COURTS AND PROCEDURES TO ENSURE SAFETY TO VICTIMS: WYNBERG SEXUAL OFFENCES COURT (SOUTH AFRICA) .....

4. VICTIM FRIENDLY COURT (ZIMBABWE) - *TO BE ADDED*

1. LEGISLATION PROVIDING PROCEDURES TO ENSURE SAFETY FOR VICTIMS: THE VICTIMS OF FAMILY VIOLENCE ACT, PRINCE EDWARD ISLAND (CANADA)

In March 1994, the Minister responsible for Victim Services asked the Victim Services Advisory Committee to review proposals for family violence legislation from Nova Scotia and Saskatchewan with a view to its applicability for Prince Edward Island. As a result of consulting with working groups on family violence legislation, community and government representatives in Prince Edward Island and other provinces, *The Victims of Family Violence Act* was introduced as provincial legislation on April 9 1996, and passed on April 26, 1996. The following description of this piece of legislation is taken from a "Summary of Implementation Process of the Victims of Family Violence Act 1994-1998" (cited below).

Synopsis

Description. Many individuals and groups were involved in this revision process. The Working Group on Family Violence Legislation helped prepare the initial draft legislation with consultation and advice from senior justice officials such as the Chief Justice of the Supreme Court, Trial Division, and the Manager of Legal Aid. *The Victims of Family Violence Act* is a key element of the province's Family Violence Prevention Strategy endorsed by Cabinet

in October 1995, for a five-year implementation period. This legislation is complementary to the Criminal Code. It is an additional measure for responding to family violence situations based on the principle of early intervention.

This Act list wide provisions which can be ordered as part of an Emergency Protection Order and contains an offence and penalty section so that breaches of orders are enforced under the Act.

Implementation details. A great deal of work was conducted in the implementation process. Fact sheets were sent out to 200 representatives of community and government organisations; the use of news media was extensive, providing coverage through the process; the drafting of regulations and forms for Emergency Protection Orders and Victim Assistance Orders; consultation from civil law lawyers; training of many divisions of the judicial process, including justices of the peace, police officers, Victim Services Staff and all outreach workers associated with violence against women. Monitoring of legal aid system was also required, as was the creation or adaptation of new or existing legal documents to address the new changes.

Cost issues. Most of the development and implementation of this Act was carried out without additional staff resources. Most work was carried out as part of their regular duties. Small amounts of project funding were obtained for research and cost of hiring law student to draft legislation and forms and for internal Monitoring Study currently reviewing the first year's experience with the Act.

Additional resources should be allowed for budget planning in the: hours worked by justices' of the peace, for Family Legal Aid to provide legal assistance, and additional resources for the monitoring and evaluating family violence legislation for at least two years following proclamation.

Evaluation. A funding proposal for evaluating the *Victims of Family Violence Act* was submitted to the Federal Department of Justice in September, 1997.

Resource person or organization to contact for further information

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Community Affairs and Attorney General
Charlottetown: Prince Edward Island, Canada
902-368-4584

Selected sources

1. Reddin, Ellie "Summary of Implementation Process of the Victims of Family Violence Act 1994-1998" (February 1998)

2. SPECIALIZED DOMESTIC VIOLENCE COURTS PROVIDE SAFETY MEASURES FOR VICTIMS - DOMESTIC VIOLENCE COURTS IN ONTARIO (CANADA)

The Ontario Minister Responsible for Women's Issues, established two domestic violence courts in 1997. One in Durham Region and one in Brampton. These domestic violence court pilot projects provide victims the support and information they need to see their cases through. The two new courts are the first of six new domestic violence court pilot projects scheduled to open during 1997. Three of the new pilot projects (Ottawa, Hamilton, London) will be based on a model currently being followed in Toronto; the others (Durham Region, Brampton and North Bay) will be based on the approach being used at the North York court. The following description is taken from a government of Ontario press release in December 1997, located on web cite: www.newswire.ca/government.ontario/english/release/December/1997/02/c0583.html.

Synopsis

Description. Based on the North York model, the domestic violence courts opening today deal primarily with first-time offenders. They focus on prevention and breaking the cycle of domestic abuse while ensuring that abusers are held accountable for their crimes. Offenders must agree to plead guilty and to complete a mandatory counselling program. The victim must also agree to this arrangement.

In the Toronto model, a dedicated team of police, Crown attorneys and victim/witness staff, who have been specially trained in domestic assault, work together to reduce the pressure on victims. In this approach Crown attorneys routinely ask police to collect much more evidence than the victim's statement -- such as 911 tapes, medical reports and audio/video victim statements.

The Downtown Toronto K Court model uses highly specialized prosecution methods for serious and violent domestic assault cases. These methods include the use of 911 tapes, photographs of victims' injuries, audio and video tapes of victim's initial statement, crime scene photographs, and medical records. These techniques help reduce the reliance on the victim's testimony to successfully prosecute offenders. By having a dedicated court, the cases are able to move more quickly through the system and provide earlier trial dates. This enables the victim to have closure sooner and also makes it easier to testify as the evidence is still fresh in the victim's mind.

The North York model focuses on cases involving first time offenders, where no injuries or minor injuries were sustained by the victims. Participation in the program is conditional on the offender agreeing to plead guilty and participate in a counselling program aimed at getting at the root of the problem and preventing repeat violence. The victim must also agree to having the offender participate in the program.

Victim/Witness Assistance and support is also an essential component of the domestic violence court program. The Victim/Witness Assistance Program supports and helps victims through the different stages of the court process including the preparation of victim impact statements and testimony in court.

Cost issues. These domestic courts have already demonstrated their success. In keeping with its commitment to improve the justice system's response to this problem, the government will commit $1.5 million in annualized funding to expand its existing projects by adding three additional North York model courts and three additional Toronto K model courts, including the following services:

- six new domestic violence courts including specialized crown and victim/witness support;
- provision of cultural interpreter services in the domestic court;
- development of supports for women with disabilities in the domestic violence courts;
- support and counselling programs for abusive men.

Evaluation. While an evaluation of the two models is still in progress, police, prosecutors and victim/witness staff believe the models are working because fewer victims are withdrawing from the process, there are more guilty pleas, and evidence collection has improved.

3. SPECIALISED COURTS AND PROCEDURES TO ENSURE SAFETY TO VICTIMS: WYNBERG SEXUAL OFFENCES COURT (SOUTH AFRICA)

In Cape Town, South Africa, the Wynberg Sexual Offences Court was established in 1992 to deal with rape and other sexual offence cases. The following description is taken by Human Rights Watch/Africa Violence Against Women in South Africa

Synopsis

Description. The Wynberg Sexual Offenses Court was created in 1992 following protest by women's organisations about the manner in which courts had dealt with two rape cases. Then acting attorney general of the Cape, Frank Kahn, appointed a senior prosecutor and a senior state advocate from the Attorney General's office to develop guidelines for prosecutors regarding the handling of sexual offence cases. In September 1992, a Task Group on Rape was set up consisting of government and nongovernmental organizations. The Task Group was to identify problem areas in treatment of rape victims at the hands of police, hospital staff, district surgeons, prosecutors and judicial officers. It was asked to find ways to end the secondary victimization suffered by rape survivors. Since the inception of the Task Group, a number of reform initiatives have been devised by government agencies in the western Cape. These have included the introduction of police rape specialists; new guidelines for the handling of rape cases; the opening of the Sexual Offenses Court at the Wynberg regional Magistrates court; and the selection of seven Regional Court prosecutors to deal with rape cases in other courts. In the Wynberg Sexual Offenses Court, women

assessors are used to offset possible male bias and specially trained regional court prosecutors deal with cases. The two prosecutors have lighter case loads to allow them more time to consult with rape complainants so as to better prepare their cases. In addition, a police officer from each of the Criminal Investigation Units in the western Cape has been trained as a police rape specialist. The court is located upstairs, away from the rest of the courts in the building, so rape survivors can wait in private. There is a separate waiting room so that the accused and the complainant do not have to wait in the same room until the case is called.

Selected Sources

1. Human Rights Watch/Africa. (1995) **Violence Against Women in South Africa: State Responses to Domestic Violence and Rape.** (Human Rights Watch)

4. VICTIM FRIENDLY COURT (ZIMBABWE) (TO BE ADDED)

III. POLICE

(A) CONSISTENT ENFORCEMENT

Section 8 (a) of the Model Strategies urges Member States to ensure that the applicable provisions of laws, codes and procedures related to violence are consistently enforced in such a way that all criminal acts of violence against women are recognised and responded to accordingly by the justice system.

Examples of Promising Practices Relating to Consistent Enforcement:

1. THE 'K' FLAGGING SYSTEM: A SURVEY OF SPOUSAL ASSAULTS REPORTED TO POLICE IN B.C. 93 - 94 (CANADA).....

2. SPECIALISED POLICE UNIT - DOMESTIC VIOLENCE & CRIMINAL HARASSMENT UNIT VANCOUVER POLICE DEPARTMENT (CANADA).....

3. SPECIALISED UNIT PROVIDING LEGAL ASSISTANCE TO WOMEN - DOMESTIC VIOLENCE LEGAL UNIT (AUSTRALIA) .....

4. GUIDE FOR CRIMINAL JUSTICE AGENCIES: THE SAN FRANCISCO POLICE DEPARTMENT'S GENERAL ORDER ON DOMESTIC VIOLENCE (UNITED STATES OF AMERICA).....

5. POLICE GENERAL ORDER FOR CONSISTENT ENFORCEMENT - DULUTH POLICE DEPARTMENT, DULUTH, MINNESOTA (UNITED STATES OF AMERICA) .....

6. POLICE ORDER REGARDING THE DATA TO BE CONTAINED ON INCIDENT REPORTS: DEPARTMENT SPECIAL ORDER 08/12/81 - SAN FRANCISCO POLICE DEPARTMENT (UNITED STATES OF AMERICA) .....

7. SOME MEASURES TAKEN BY THE COMMUNITY ORIENTED POLICING SERVICES OFFICE OF THE US DEPARTMENT OF JUSTICE (UNITED STATES OF AMERICA).....

8. MODEL PROTOCOL FOR POLICE RESPONSE TO DOMESTIC VIOLENCE (UNITED STATES OF AMERICA) .....

9. WOMEN ONLY RAPE SQUADS (MALYASIA) – *TO BE ADDED*

10. GUYANA POLICE STATIONS (GUYANA) – *TO BE ADDED*

1. THE 'K' FLAGGING SYSTEM: A SURVEY OF SPOUSAL ASSAULTS REPORTED TO POLICE IN B.C. 93 - 94 (CANADA)

One of the objectives of implementing the "K" flagging system to charges involving spousal assault is to ensure consistent enforcement and a priority response by the criminal justice system to these type of cases. This extract is taken from a survey of spousal assaults reported to police in British Columbia in 1993-94 (Ministry of Attorney General: Police Services Division) which describes the "K" flagging system.

Synopsis

Description. The 'K' flagging system was established by the Ministry of Attorney General. It is a case flagging system used primarily to track spousal assault cases through out the Criminal Justice System. Case flagging permitted Crown Counsel and justices of the peace to add a "K' on an Information involving a spousal assault. The charges or counts on the Information could then be tracked through the court system. After a pilot study in March/April 1993, the 'K' system was implemented province-wide.

Evaluation. A survey taken of spousal assaults reported to the police in British Columbia during 1993 - 1994 revealed that in 1993, 56% of surveyed incidents had a 'K' added to the end of the court file number. Although 56% may seem rather low, this flagging system only started in the spring of 1993.

In 1994 the number of incidents which had a 'K' added to the end of the court file number increased to 75% of the number of incidents where Crown Counsel proceeded with a charge. However, it often takes more than one year for a system of this nature to be implemented province-wide. Data for 1995 will provide a better indication of the extent to which the 'K' system is actually being used.

This survey did not examine court cases where a 'K' was added to the end of the court file number to determine whether the 'K' addendum is limited to spousal assaults. Similarly, the survey did not examine spousal assault court cases flagged with a 'K' to determine whether they were recorded as spousal assaults by the police. Although concern has been raised regarding the 'K' flagging system, it was not within the scope of this study to determine its utilization and accuracy.

Resource person or organization to contact for further information
Ministry of Attorney General of British Columbia
Police Services Division
Victoria, British Columbia, Canada V8V 1X4

2. SPECIALISED POLICE UNIT - DOMESTIC VIOLENCE & CRIMINAL HARASSMENT UNIT VANCOUVER POLICE DEPARTMENT (CANADA)

Synopsis

Description. In 1996, the Vancouver Police Department formed its Domestic Violence & Criminal Harassment Unit. The Unit's mandate follows:
The Domestic Violence & Criminal Harassment Unit is comprised of two separate but complementary units within one office and under the supervision of one Sergeant.

The Criminal Harassment Unit is comprised of two investigators supervised by a Sergeant. The mandate of the Criminal Harassment Unit is to conduct follow-up of Criminal Harassment (and similar) cases, including those cases where a pattern of repeated victimization is present that fits the profile of a stalker, whether or not the offence of Criminal Harassment has specifically occurred. The Unit works proactively towards identifying these cases, in

addition to following up cases forwarded by the Patrol Division and other Sections of the Department, and providing investigative advice to investigators within and without the Department.

The Criminal Harassment Unit provides training to in-service members, recruits, and members of other Departments when practicable.

There are currently two Domestic Violence Teams (DVT) with plans to add a third. Each DVT is comprised of a police investigator and a "community counsellor"- employed by Family Services of Greater Vancouver - with professional qualifications in social work or a related social science as well as experience in dealing with victims of domestic violence. The DVTs work under the direct supervision of the DVACH Unit Sergeant, and are also accountable to an advisory committee comprised of the Sergeant I/c and representatives from Family Services of Greater Vancouver, The Vancouver Coordination Committee on Violence Against Women in Relationships, and other community stakeholders.

The mandate of the DVTs is to provide prompt follow-up service to partners who are experiencing violence in their relationships. These incidents are generally referred by Patrol Division members, but the DVTs may also respond directly to incidents referred from other sources in extraordinary circumstances. In addition, the DVTs will proactively identify women at risk of domestic violence and intervene where possible. The goal of the DVTs, whether the cases are initiated by Patrol members are not, is to ensure that the investigation of the selection cases is thorough, and that where charges are laid, the victims are supported through to trial to reduce the likelihood of the victim "dropping out" of the prosecution.

The DVTs are not able to follow up all cases initially investigated by Patrol members, because of the numbers involved. Therefore, the DVTs select cases based on several factors, including the level of risk to the victim

Providing education and training to Patrol Division members regarding the dynamics of domestic violence and the investigation of these incidents is an important function of the DVTs.

Resource person or organization to contact for further information
Domestic Violence & Criminal Harassment Unit
Vancouver Police Department
312 Main St.
Vancouver, British Columbia
Canada V6A 2T2,
Tel. (604) 665-3535
Fax (604) 665-5078

3. SPECIALISED UNIT PROVIDING LEGAL ASSISTANCE TO WOMEN - DOMESTIC VIOLENCE LEGAL UNIT (AUSTRALIA)

One way to ensure consistent enforcement by police regarding crimes against women is to ensure that the women victims have legal representation to follow their cases through the criminal justice system. The Domestic Violence Units in Australia provide this type of service.

Synopsis

Description. THE DOMESTIC VIOLENCE LEGAL UNIT
The Domestic Violence Legal Unit aim to advise and assist women through the legal channels available to them. The Unit may do this by:

- Speaking to the police on behalf of clients, to ensure that appropriate criminal charges are laid against the person who has been violent or threatened physical violence.
- Advising and assisting clients to get restraining orders against the persons committing the domestic violence.
- Representing women in Court for restraining order hearings.
- Encouraging police to apply for restraining orders on behalf of women.
- Speaking to the police on behalf of clients to ensure prompt service of restraining orders.
- Giving initial advice and making appropriate referrals about other problems which may arise when a woman is

trying to escape domestic violence. These may include family law matters, property matters, Criminal Injuries Compensation.
- Helping women understand the court proceedings if criminal charges have been laid against the person committing the domestic violence.

GENERAL OBJECTIVES
- To raise public awareness about domestic violence.
- To educate the community about the importance of developing appropriate legal structures and social structures to help those who want to escape domestic violence.
- To be actively involved in law reform and the development of policy about domestic violence.
- To clarify and expand areas of law relating to domestic violence by appealing certain court decisions.
- To empower women with information and options to assist them to lead lives free from domestic violence.

Resource person or organization to contact for further information
Domestic Violence Legal Unit
Telephone (08) 9261 6254 or (08) 9261 6320
Fax (08) 9221 7936
GPO BOX L916,
PERTH, 6001

4. GUIDE FOR CRIMINAL JUSTICE AGENCIES: THE SAN FRANCISCO POLICE DEPARTMENT'S GENERAL ORDER ON DOMESTIC VIOLENCE (UNITED STATES OF AMERICA)

This extract is taken from the book "Confronting Domestic Violence: A Guide for Criminal Justice Agencies". It is recognised that the response of police to domestic violence is particularly important because they are most likely to be contacted to intervene in battering incidents, and police departments are the only public agencies that can respond around-the-clock at times of crisis. The process by which police domestic violence policies are established differs from one jurisdiction to the next. The impetus for change can come from new state legislation, members of the police department, and other criminal justice agencies or battered women's advocacy groups within the community. A cooperative atmosphere between legislators, criminal justice officials, and advocacy groups generally lead to smoother implementation and better results. Written policies should detail appropriate actions in all phases of police intervention in spouse abuse cases. These policies should begin with a general definition of spouse abuse or domestic violence. The policies in some departments also include a number of general provisions, such as a statement on the criminal nature of domestic violence, and a list of factors that should *not* influence police behaviour in responding to spouse abuse incidents. Such lists are a particularly useful reminder to officers in departments where domestic violence training is minimal or non-existent, although they also appear in policies for some departments that do have a heavy emphasis on training.

Synopsis

Description. The San Francisco Police Department's General Order on domestic violence contains the following provisions:

A. Domestic violence is defined as any harmful physical contact or the threat thereof between persons who are spouses or cohabitants or who have previously been spouses or cohabitants.
B. Officers shall treat all domestic violence as criminal conduct. Domestic violence incidents shall be treated the same as all other requests for police assistance in cases where there has been physical violence or the threat thereof.
C. Dispute mediation shall not be used as a substitute for appropriate criminal proceedings in domestic violence cases where physical violence has occurred.
D. The existence of the elements of a crime and/or the willingness of the victim to sign a Citizen's Arrest Card shall be the sole factors that determine the proper method of handling the incident. The following factors, for example, are not to influence the officer's course of action in domestic violence incidents:

1) the marital status of the suspect and the complainant- i.e., not married, separated, or pending divorce;
2) whether or not the suspect lives on the premises with the complainant;
3) the existence or lack of a temporary restraining order, and/or stay *away* order;
4) the potential financial consequences of arrest;
5) the complainant's history of prior complaints;
6) verbal assurances that violence will cease;
7) the complainant's emotional state;
8) injuries are not visible;
9) the location of the incident (i.e., public or private);
10) speculation that the complainant may not follow through with the criminal justice process or that the arrest may not lead to a conviction.

Selected Sources

1. Goolkasian, G.A. Confronting Domestic Violence: A Guide for Criminal Justice Agencies (Washington: National Institute of Justice: 1986)

5. POLICE GENERAL ORDER FOR CONSISTENT ENFORCEMENT - DULUTH POLICE DEPARTMENT, DULUTH, MINNESOTA (UNITED STATES OF AMERICA)

A copy of this order was found in the book Confronting Domestic Violence: A Guide for Criminal Justice Agencies.

Synopsis

Text. GENERAL ORDER #83-9 (November 29, 1993)

TO: All Members of the Department

SUBJECT: Revision of General Order 82-3 regarding Domestic Violence

Effective Thursday, December l, 1993, the following policy will replace the existing policy regarding domestic violence under section: 506.92 of the Department manual. Language previously contained in that section will be disregarded.

These language changes are intended to reflect recent legislative changes to the probable cause arrest statute and to increase the department’s effectiveness in responding to domestic assault cases. In a continuing effort to cooperate with the St. Louis County Court system and other Duluth agencies to provide a more uniform and consistent response to domestic assault cases, the following guidelines shall be enacted.

1. An officer shall arrest and take into custody a person whom the officer has probable cause to believe has violated an order for protection restraining the person or excluding the person from the residence if the existence of the order can be verified by the officer.

(Note: Because state law requires an arrest regardless of whether or not the person was invited back into the home, county court judges have agreed when issuing this order to inform the excluded party that the court must formally change the order in order for him/her to return to the residence.)

2. An officer shall arrest and take into custody an adult whom the officer has probable cause to believe assaulted another adult with whom he/she is residing with or has formerly resided with if:
   a) There are visible signs of injury or physical impairment; or
   b) There was a threat with a dangerous weapon.

The arrest must take place within four hours of the alleged assault and the officer must believe that the injuries were the result of an assault by the alleged assailant.

(Note: Probable cause is defined as follows: Based on the officers' observations and statements made by the parties

involved and witness (if any) the officer using reasonable judgement believes an assault did occur and the person to be arrested committed the assault.)

3. An officer may arrest when responding to a call involving persons (of any age) residing together or who have resided together in the past if the officer has probable cause to believe that the alleged assailant has within the past four hours placed the alleged victim in immediate fear of bodily harm.

4. Whenever an officer investigates an allegation that an incident described above occurred, whether or not an arrest is made, the officer shall make a written report of the alleged incident and submit that report to the Inspector of the Patrol Division. In addition, the officer shall advise victims of the availability of the Women's Coalition and the Domestic Abuse Intervention Project and give victims legal rights and services cards.

5. Following a domestic related arrest, the officer shall advise the victim that an advocate will contact her/him within the next several hours to explain the legal and service options available. The officer shall request that the jailer contact the Women's Coalition at 728-3679 immediately following the booking procedure and inform them that an arrest has been made. Advocates will be sent to talk to the assailant prior to his/her release.

(Note: Section l, 3 and 4 of this order are required of an officer as department policy and Minnesota state law. Minnesota statute 1982, Sec. 629.341 provides immunity from civil and criminal liability to officers making good faith arrests under this law).

Selected Sources

1. Goolkasian, G.A. Confronting Domestic Violence: A Guide for Criminal Justice Agencies (Washington: National Institute of Justice: 1986)

6. POLICE ORDER REGARDING THE DATA TO BE CONTAINED ON INCIDENT REPORTS: DEPARTMENT SPECIAL ORDER 08/12/81 - SAN FRANCISCO POLICE DEPARTMENT (UNITED STATES OF AMERICA)

One way to ensure consistent enforcement by police of offences involving violence against women is for the police to contain information of domestic assaults on incident reports. The following example is taken from Confronting Domestic Violence: A Guide for Criminal Justice Agencies.

Extract of text

POLICE ORDER: Subject: DOMESTIC VIOLENCE: INCIDENT REPORT DATA

I. PROCEDURE

Effective August l, 1981 the Incident Report Form, SFPD 377, will have a "Domestic Violence" box in the first line of the form. The Domestic Violence box is to be circled YES or NO on all incident reports. Platoon Commanders are responsible for seeing that members fulfil this requirement.

II. DEFINITIONS

A. Department General Order No. I-6, Domestic Violence, defines domestic violence as:
“Harmful physical contact or the threat thereof between persons who are spouses or cohabitants or' who have previously been spouses or cohabitants."

B. Domestic violence includes any harmful physical contact or the threat thereof, that occurs between current or former:

1. Spouses
2. Cohabitants
3. Boyfriends or girlfriends
4. Adult family members (e.g., elderly abuse)

5. Separated and divorced couples
6. People of the same sex who have an intimate and/or sexual relationship
7. Any two individuals who have or previously have had a sexual relationship.

III. REPORTING

A. The Domestic Violence box on the Incident Report Form shall be circled YES whenever the genesis of the crime, such as an assault, trespassing, destruction or property or violation of a temporary restraining order, is related to a domestic problem.

SPOUSAL ABUSE UNIT

The following is a summation outline or the duties, responsibilities, and organizational objectives or the Spousal Abuse Unit.

The Spousal Abuse Unit is responsible for the following duties:

- Identifying repeat offenders (batterers)
- Maintenance of an accurate file on all repeat offenders
  - prior offenses or spousal abuse
  - court proceedings and dispositions
  - prior counselling received
- Reviewing the quality of reports for prosecution purposes and for any additional investigation which may be needed.
- Conducting follow-up investigations.
- Arrest of offenders when appropriate.
- Assist Patrol Division in case preparation as needed.
- Identify domestic violent households where the violence is of regularity or the members of the household are prone to assaults on the police.
- Notify the precinct stations of the violent household in their area (especially if the violent household has moved from one area to another).
- Providing or coordinating victim assistance with social services by being in contact with both victims end batterers, as well as civic organizations and public interest groups, to inform them of the existing services available to help them.
- Follow all cases through all prosecutory stages.

Organization of Follow-Up Procedures

1.Review all reports dealing with domestic situations to:

- Identify repeat offenders
- Identify potentially hazardous situations
- Ensure the quality of the report is sufficient enough to aid in the prosecution of the case, and determine if any additional investigation is needed by the officer who initiated the report to meet the criteria of the department's Report Writing Manual.

2. Follow up those cases in which:

- A repeat offender has been identified
- The victim receives serious injury
- A weapon (i.e., handgun, knife, etc.) was used to inflict the injury
- The Spousal Abuse Unit feels the incident warrants further investigation

3. Follow up by the Spousal Abuse Unit shall be conducted in the following manner:

- Contact the victim, either in person or by telephone (preferably in person), to discuss the incident and make the victim aware of his/her legal options along with the various services available to assist both the victim and abuser to end the violence
- Contact the abuser, if possible, to make him/her aware of the above
- Alert the District Court prosecutor of the State Attorney's Office on all cases in which a repeat offender is identified and currently active in the Criminal Justice System
- Track each case associated with spousal abuse through the court system and maintain the necessary records

Sources Available to Accomplish Investigation and Follow-Up

- The channelling of all spousal abuse reports to the unit for review and accurate monitoring.
- Computerized central complaint file that provides all offenses of like kind reported by the victim or suspect within the past seven years. (This identifies any escalating violence end/or any pattern of recidivism.)
- State Criminal History files - access made available through in-house computer terminal.
- Court proceedings - (Also made accessible through in-house computer terminal or by generated printout by the court.)
  - All summonses or warrants issued by the court for all domestic violence related cases.
  - Trial location, dates, and times of all eases scheduled.
  - Disposition or the cases by the court, including sentence conditions. (Retrievable up to 120 days after trial.)
  - Copies of all civil action Domestic Violence Protection orders issued and the results of the full hearing decisions made by the judges in those orders.
- Domestic Violence Coordinating Committee - providing contact with representatives of the following:
  - -Criminal Justice Coordinator's Office
  - -State's Attorney's Office Victim
  - -Witness Assistance Office
  - -Parole and Probation
  - -District Court Judges
  - -District Court Commissioner's Office
  - -Counselling services and shelters for battered spouses
  - -Social Services Department
  - -Health Department
  - -Community Relations Council
- Counselling services available for referral:
  - -Maryland Children's and Family Services
  - -Sexual Assault and Domestic Violence Center
  - -Family Crisis Center

Methods Used to Reduce Violence

- Personal contact with the batterer by the Spousal Abuse Unit.
- Case preparation to convince the court that court-ordered counselling is needed.
- Referral to batterers' counselling groups.
- Arrest whenever possible.
- Enhance public awareness that spousal abuse is a crime.

Selected Sources

1. Goolkasian, G.A. Confronting Domestic Violence: A Guide for Criminal Justice Agencies (Washington: National Institute of Justice: 1986)

7. SOME MEASURES TAKEN BY THE COMMUNITY ORIENTED POLICING SERVICES OFFICE OF THE US DEPARTMENT OF JUSTICE (UNITED STATES OF AMERICA)

Extract from the Violence Against Women Act News Vol. III. September 1996. The Community Policing to Combat Domestic Violence Program, a funding initiative of the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS), encourages police and sheriffs' departments to form partnerships with advocacy organizations in the effort to reduce domestic violence.

Through this new initiative, law enforcement agencies were called on to partner with non-profit, non-governmental victim services programs, domestic violence shelters or community service group The response was so overwhelming that the original $10 million allocated for funding was increased to $46 million. Three hundred thirty-four agencies paired with advocacy groups in all 50 states received grants.

Synopsis

Description. The San Diego Police Department and Domestic Violence Services of the YWCA of San Diego County will develop a Community Domestic Violence Resource Network, including a toll-free telephone clearinghouse of information on all services available throughout the area in emergency and non-emergency domestic violence situations.

The Oglala Sioux Tribe Safety Commission, along with Project Medicine Wheel in South Dakota, are developing a new protocol for police officer investigation and report writing to increase the strength of cases going to trial. In Akron, Ohio, the Police Division, in partnership with the Victim Assistant Program, will develop a court to specifically handle domestic violence cases.

In Alaska, the North Slope Borough of Alaska and the Arctic Slope Native Association, confronted with a remote area that covers nearly 90,000 square miles, will seek a way to provide services to domestic violence victims.

In Hawaii, the Honolulu Police Department, with its partners, Parent and Children Together and Domestic Violence Clearinghouse and Legal Hotline, will create a "one-stop" Drop-In Center to assist victims of domestic violence in a non-threatening environment. The Center will provide victims wit on-site crisis assistance, counselling, legal assistance and child care while parents attend court. The department will have a detective on site, allowing for close cooperation between victim advocates and police in preliminary stages of an investigation.

These innovative ideas to reduce and curtail domestic abuse are as numerous as the departments that applied for these grants. It is believed that as a result of this program, successful and long-lasting partnerships will be formed between law enforcement agencies and advocacy groups.

With department by department successes, the wealth of knowledge gleaned from these projects be shared throughout the country, helping to curb domestic violence and improve services to victims nation-wide.

Resource person or organization to contact for further information
Office of Community Oriented Policing Services (COPS)
U.S. Department of Justice
1100 Vermont Avenue, NW
Washington, DC 20530

8. MODEL PROTOCOL FOR POLICE RESPONSE TO DOMESTIC VIOLENCE (UNITED STATES OF AMERICA)

The Task Force urges the Pennsylvania State Police and each police department in Pennsylvania to adopt a written protocol establishing guidelines and procedures to be followed by police officers and other personnel involved in the police response to domestic calls. In aid of that purpose, the Task Force offers the following model protocol, which can be readily adapted to the particular needs of the state police and police departments throughout the Commonwealth.

The core feature of the model protocol is the provision that police should arrest the assailant in domestic violence cases whenever arrest is authorized. To underscore the presumption that arrest is the proper response in the overwhelming majority of domestic violence cases, the protocol requires the responding officer, if he decides not to arrest, to include in his report of the incident a detailed explanation of the reasons why an arrest was not made. The protocol further provides a list of factors that the officer should not consider in making the arrest decision.

Many other jurisdictions, either by legislation or through police department protocols, have adopted policies that mandate arrest of the assailant in domestic violence cases. The Task Force considered but rejected this absolute approach because it found problematic the concept of removing all discretion from the responding officer. However exceptional they may be, cases are certain to arise in which arrest, though authorized, is inappropriate because it does not serve the interests of justice and is not necessary to ensure the victim's safety.

Another important feature of the model protocol is the provision that police should identify the victim to a domestic violence program whenever the accused has been arrested or is the subject of an arrest warrant. The intent and

expectation of this provision is that the domestic violence program will contact the victim, in the manner that the program finds most appropriate, to offer the victim support and referral to services. This aggressive outreach is designed to help overcome the fear and isolation that so often deter victims of domestic violence from pursuing needed assistance on their own initiative.

Some members expressed concern that, while the law does not require police to keep the victim's identity confidential, the identification of victims to domestic violence programs nevertheless might unduly compromise the preference of some victims for strict privacy. The majority believed, however, that the benefit to the many victims who otherwise would receive no help when they needed it most justifies the approach of affirmative referral and outreach, particularly in view of the minimal intrusion upon privacy that such referral and outreach entails. Domestic violence programs routinely observe the strictest confidentiality; no victim is required accept assistance, and the risk of further disclosure of the victim's identity is remote.

The following protocol, in the judgement of the Task Force, combines law enforcement and victim assistance into an effective program of police response to domestic violence.

Description.
MODEL PROTOCOL FOR POLICE RESPONSE TO DOMESTIC VIOLENCE

A. Purposes

1. The principal purpose of this protocol is to establish guidelines and procedures to be followed by police officers and other personnel involved in the police response to domestic calls.

2. Other purposes and goals of this protocol are:

(a) To reduce the incidence and severity of domestic violence by establishing arrest and prosecution, rather than mediation, as the preferred means of police response to domestic violence;

(b) To afford maximum protection and support to victims of domestic violence through a coordinated program of law enforcement and victim assistance;

(c) To ensure that law enforcement services are as available in domestic violence cases as they are in other criminal cases;

(d) To reaffirm the police officer's authority and responsibility to make arrest decisions in accordance with established probable cause standards;

(e) To promote officer safety by ensuring that officers are as fully prepared as possible to respond to domestic calls; and

(f) To help reduce police resources consumed in responding to domestic violence by reducing the number of police interventions required for any particular household.

B. Policy

Domestic violence is a crime that differs from other crimes because of the intimate relationship between the victim and the accused. Notwithstanding that difference, police should respond to domestic violence as they would respond to any crime. Police should arrest and pursue criminal remedies appropriate to the crime that the police have probable cause to believe the accused has committed. In recognition of the difference between domestic violence and other crimes, however, police also should provide victims with special assistance, including efforts to ensure that victims are informed of services available to victims of domestic violence.

C. Scope of Coverage

1. This protocol applies to any call to police reporting a disturbance between persons in a "covered relationship" to each other.

2. "Covered relationships" include: persons related by blood or marriage; persons who reside or formerly resided together; persons who are biological parents of the same child; and current or former sexual or intimate partners.

D. Dispatch

1. Dispatchers under the direct supervision of a police department should dispatch domestic calls in the same manner as any other call for police assistance, in accordance with the priority criteria prescribed by generally applicable department procedures.

2. Dispatchers who serve multiple police departments should accord domestic calls the highest priority, classification. Whenever possible, the dispatcher should assign a back-up unit.

3. The dispatcher receiving a domestic call should attempt to elicit from the caller and should communicate to the responding officer as much of the following information, in the following order of importance, as time and the exigencies of the reported incident allow:

(a) The nature of the incident;

(b) The address of the incident, including the apartment number or the name of the business, as appropriate;

(c) A telephone number where the caller can be called back;

(d) Whether weapons are involved;

(e) Whether an ambulance is needed;

(f) Whether the suspect is present and, if not, the suspect's description, direction of flight, and mode of travel; and

(g) Whether children are at the scene.

4. If the caller is the victim, the dispatcher should attempt to keep the caller on the telephone as long as possible and should tell the caller that help is on the way and when the caller can expect the police to arrive.

5. If the caller is a witness to a domestic incident in progress, the dispatcher should keep the caller on the telephone and should relay ongoing information provided by the caller to the responding officer.

6. If the dispatcher has ready access to police department records that indicate whether the parties involved in the incident have been involved previously in domestic incidents or that indicate whether there is a protection from abuse order involving the parties in effect, the dispatcher should consult such records and radio any relevant information to the responding officer.

E. Initial Police Officer Response

1. Approaching the scene.

(a) The responding officer should approach the scene of a domestic dispute as one of high risk. Whenever possible, two officers will respond to a domestic call.

(b) The officer should obtain all available information from the dispatcher before arriving at the scene and should notify the dispatcher upon arrival.

(c) The officer should avoid the use of sirens and emergency lights in the vicinity of the scene of the incident. Sirens and lights should be employed only when speed is essential.

(d) The officer should not park the police vehicle directly in front of the residence or other site of the disturbance. The officer should be alert for assailants leaving the scene and for the employment of weapons from doors, windows, or nearby vehicles.

(e) The officer otherwise should employ standard precautionary measures in approaching the scene of the incident.

2. Initial contact with occupants.

(a) The responding officer should identify himself as a police officer, explain his presence, and request entry into the home. The officer should ask to see the person who is the subject of the cell. If the person who called the police is someone other than the subject of the call, the officer should not reveal the caller's name.

(b) The officer may enter and conduct a search of the premises relevant to the incident if consent has been given to do so.

(c) If refused entry, the officer should be persistent about seeing and speaking alone with the subject of the call. If access to the subject is refused, the officer should request the dispatcher to contact the caller if the caller is the subject of the call. If access is still refused, the officer must decide whether to leave, remain and observe, or force entry. If the officer leaves the scene, he should drive by and observe frequently. If the officer remains to observe, he should move to public property (the street) and observe the premises. In some circumstances, forced entry will be necessary and appropriate.

3. Once inside, the responding officer should establish control by:

(a) Identifying potential weapons in the surroundings;

(b) Separating the victim and the assailant;

(c) Restraining the assailant if necessary, and removing the assailant to the patrol car if immediate arrest is warranted;

(d) Assessing the injuries (including inquiry about possible internal injuries), administering first aid, and/or notifying emergency medical services;

(e) Inquiring about the nature of the dispute;

(f) Identifying all occupants/witnesses on the premises; and

(g) Separating occupants/witnesses from the victim and accused and keeping them out of hearing range (to avoid compromising their witness status).

4. On-scene investigation:

(a) The responding officer should interview the victims and the assailant as fully as circumstances allow. The officer should be alert to possible incriminating statements.

(b) The officer should ensure the victim's safety and privacy by interviewing the victim in an area apart from the assailant, witnesses, and bystanders. In questioning the victim, the officer should use supportive interview techniques. The officer should ask the victim about previous domestic incidents, their frequency and severity. The officer should not tell the victim what action he intends to take until all available information has been collected.

(c) If the accused has been arrested prior to interview, the accused must be given Miranda warnings before being questioned. If the accused has fled the scene, the officer should solicit information as to the possible whereabouts of the accused (place of employment, relatives, friends, etc.).

(d) If the dispatcher has not advised the officer of the existence of a protection from abuse order, the officer should ask the victim whether there is such an order and, if so, if the, victim can produce a copy and what police department might have a copy. The officer should contact the countywide registry of protection from abuse orders, the prothonotary's office, or a local police department specified by the victim to verify the existence and

effective period of the order. The officer should note carefully the restrictions imposed by the order so that the officer may determine whether there is probable cause to believe that the order has been violated.

(e) The officer should interview any witnesses as fully and as soon as circumstances allow. If witnesses provided information about prior incidents, the officer should document such incidents to establish a pattern.

(f) Children should be interviewed in a manner appropriate to the child's age. Signs of trauma and any apparent healing of abuse wounds on the child should be noted by the officer.

(g) The officer should collect and preserve all physical evidence reasonably necessary to support prosecution, including evidence substantiating the victim's injuries, evidentiary articles that substantiate the attack (weapons, torn clothing, etc.), and evidence recording the crime scene. The officer should ensure that photographs are taken of visible injuries on the victim and of the crime scene.

(h) The officer should encourage the victim to seek an emergency room examination. Emergency room pictures are excellent evidence of injuries. The officer should inquire about injuries of the victim that are concealed by clothing or otherwise not readily apparent. Also, because bruises may not appear for several days after an assault, the office should advise the victim to contact the police for photographs if injuries later appear and, if possible, should revisit the victim if there is reason to suspect that such evidence of injury indeed may later appear.

(i) All physical evidence should be collected, noted in reports, and vouchered as in other criminal investigations.

F. The Arrest Decision

1. The responding officer should arrest the assailant whenever arrest is authorized If the officer decides not to arrest, he must include in his report of the incident a detailed explanation of the reasons why an arrest was not made.

2. Under current Pennsylvania law, arrest is authorized in the following circumstances:

(a) When the officer has probable cause to believe that the suspect has committed a felony.

(b) When the officer observes the commission of a felony or a misdemeanour.

(c) When the officer has probable cause to believe that the suspect has committed a domestic violence misdemeanour as specified in 18 Pa.C.S.§2711, which authorizes warrantless arrest when the misdemeanour is involuntary manslaughter (18 Pa.C.S. §2504), simple assault (18 Pa.C.S. §2701), or recklessly endangering another person (18 Pa.C.S. §2705), and the officer observes recent physical injury or other corroborative evidence, and the victim is the spouse of the suspect or a person with whom the suspect resides or has formerly resided. The domestic violence misdemeanour need not have been committed in the officer's presence.

(d) When the officer has probable cause to believe that the suspect has violated a valid protection from abuse order. The violation need not have occurred in the officers presence, and no corroborative evidence is required.

(e) When a misdemeanour not included among those in paragraphs (b) through (d) has been committed and the officer has obtained an arrest warrant.

3. The officer should not consider the following factors in making the arrest decision:

(a) The marital status of the parties.

(b) The ownership or tenancy rights of either party.

(c) Verbal assurances that the violence will stop.

(d) A claim by the accused that the victim provoked or perpetuated the violence.

(e) Denial by either party that the abuse occurred when there is evidence of domestic violence.

(f) Speculation that the victim will not follow through or cooperate with criminal prosecution (whether based on prior incidents involving the same victim, the victim's hesitancy about pursuing prosecution, or any other factor).

(g) The disposition of any previous police calls involving the same victim or accused.

(h) Speculation that the arrest may not lead to a conviction.

(i) The existence or not of a current protection from abuse order (except insofar as the violation of such an order might justify arrest).

(j) The victim's emotional gate.

(k) Concern about reprisals against the victim.

(1) Adverse financial consequences that might result from the arrest.

(m) That the incident occurred in a private place.

(n) The racial, cultural, social, political, or professional position, or the sexual orientation, of either the victim or the accused.

4. It is the officer's responsibility to decide whether an arrest should be made. The officer, therefore, should not consider the victim's opposition to arrest and should emphasize to the victim, and to the accused as well, that the criminal action thus initiated is the Commonwealth's action, not the victim's action.

5. If the officer arrests for the commission of a crime, the officer should confiscate all weapons used or threatened to be used in the commission of the crime, and such weapons should be held as evidence for prosecution.

6. If the officer arrests for violation of a protection from abuse order, the officer is required by 35 P.S.{}10190 to confiscate all weapons used or threatened to be used in the violation, and to deliver such weapons to the office of the sheriff'.

7. If there is evidence of mutual battering and the officer concludes that one party was acting in self-defense, that party should not be arrested.

8. If there is evidence of mutual battering and the officer concludes that one party was the principal aggressor, the officer should arrest only that party.

G. Effectuating the Arrest

1. The responding officer should take the accused into custody as soon as the officer determines that a warrantless arrest is appropriate. If the suspect has fled the scene, the officer should initiate procedures to pursue and apprehend the accused as promptly as possible, since the risk is high in domestic violence cases that the accused will return to the victim's residence or the scene of the violence. If a warrant is necessary, the officer should obtain and execute the warrant as soon as practical.

2. When the accused is a minor (under 18 years of age), the provisions of this protocol shall be fully applicable, except that arrest should be effectuated and the juvenile processed pursuant to the Juvenile Act.

3. If, upon examination of the accused, the responding officer determines that a voluntary or involuntary commitment to a mental health facility is required, the officer should restrain the accused and contact a MH/MR delegate. The officer should not allow the possibility of mental illness to preclude a valid criminal arrest.

4. Domestic disturbances involving prominent citizens, public officials, or police officers may present particular difficulties for the responding officer. In such circumstances, the responding officer should request that an

appropriately senior officer come to the scene. The responding officer should take whatever action is necessary to protect the victim and detain the assailant, while awaiting the arrival of the senior officer. When there is probable cause to believe that the accused has committed a crime, the procedure followed upon arrival of the senior officer should be the same as it would be in any other domestic incident.

H. Procedure When Arrest Is Not Authorized or, if Authorized, Is Not Made

1. If an arrest is not authorized because the abusive act is a summary offense, the responding officer should issue a citation.

2. If arrest is not authorized because of the absence of probable cause to believe that a crime was committed, or if arrest is authorized but not made (for reasons to be detailed in the incident report), the officer should:

(a) Explain to the victim the reasons that arrest is not being made;

(b) Advise the victim of procedures for filing a private criminal complaint; and

(c) Encourage the victim to contact the domestic violence program identified in the notice required by 18 Pa. C.S. §2711 (see paragraph 1.2. of this protocol) for information regarding counselling and other services available to victims of domestic violence.

3. The office should not become involved in the disposition of personal property, ownership of which is in dispute. In the absence of a warrant or probable cause to believe a crime has occurred, the officer should remain neutral and be concerned primarily with maintaining the peace and safety of those present.

I. Other On-Scene Assistance to Victims and Dependents

1. Whether or not an arrest is made, the responding officer should not leave the scene of the incident until the situation is under control and the likelihood of further violence has been eliminated. The officer should stand by while victims gather necessities for short-term absences from home, such as clothing, medication, and necessary documents.

2. Whether or not an arrest is made, the responding officer is required by 18 Pa. C.S. §2711 to notify the victim orally or in writing of the availability of a shelter, including its telephone number, or other services in the community. The notice must include the following statement:

If you are a victim of domestic violence, you have the right to go to court and file a petition requesting an order for protection from abuse pursuant to the Act of October 7, 1976 (P.L. 1090, No. 218), known as the Protection From Abuse Act, which could include the following:

(1) An order restraining the abuser from further acts of abuse.

(2) An order directing the abuser to leave your household.

(3) An order preventing the abuser from entering your residence, school, business or place of employment.

(4) An order awarding you or the other parent temporary custody of or temporary visitation with your child or children.

(5) An order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.

3. If an arrest is made or an arrest warrant obtained, the officer should:

(a) Advise the victim that the officer will give the victim's name, address, and telephone number to the domestic violence program and proceed to do so before the officer's shift has ended;

(b) Advise the victim that a domestic violence counsellor will be asked to contact the victim to offer assistance and referrals to other available services (such as counselling, legal aid, etc.);

(c) Advise the victim of what procedure will happen next, including the probability that the accused will be in custody for only a short period of time;

(d) Obtain the address and telephone number where the victim can be contacted if 'the victim decides to leave the residence (being careful that the accused cannot overhear);

(e) Obtain from the victim information to be included in the arrest report indicating any special conditions of bail that should be requested at the preliminary arraignment; and

(f) Provide the victim with the police incident number (if available), the officer's name and badge number, and a follow-up telephone number.

4. If the victim does not speak English, the officer should mange for translation of the foregoing notices and advice.

5. In circumstances in which it is necessary for the victim temporarily to leave the residence, the officer should offer the victim assistance in locating lodging with family, friends, in public accommodations, or at a domestic violence shelter.

6. The officer, upon request of the victim, should provide or help arrange transportation to emergency housing or to a medical facility.

7. Elder victims and dependents.

(a) When a victim of domestic violence is elderly (60 or over), the accused is the sole caretaker, and an arrest is indicated, or when the victim of domestic violence is the sole caretaker of a physically dependent eider and the victim can no longer provide care (as, for example, when the victim is hospitalized), the responding officer should determine whether the elder is physically endangered, either as a result of the abuse, a pre-existing medical condition, or the removal of a caretaker. If the eider is physically endangered and mentally alert, the officer should ask the eider for the name of a relative or friend who can be contacted immediately to assist the eider.

(b) If there is no one available to assist the elder, or if the eider appears not to be mentally alert, the officer should make an emergency referral to a local agency on aging. The officer should remain at the residence until the protective services worker arrives or should transport the eider to a medical facility or other appropriate place where the elder can wait for the worker.

(c) In addition to providing the notification required by other provisions of this protocol, the officer should advise the eider of the availability of protective services through the local area agency on aging.

8. Child victims and dependents.

(a) When the victim of abuse is a minor child, the officer should arrest the 'assailant upon probable cause to believe that a crime has been committed and should make a report to child protective services, as required by the Child Protective Services Law. If the child is physically injured, the officer should escort the child to the nearest hospital for treatment. The officer should provide victim notification, as described in this protocol, to an adult caretaker of the child who is not the perpetrator of abuse.

(b) If the accused is arrested and was the sole caretaker of a child, and/or if the victim is the sole caretaker of a child and can no longer provide care (as, for example, when the victim is hospitalized), the officer should determine whether there is a responsible relative who can care for the child and, if so, should contact that relative and await the relative's arrival. If no responsible relative is available, the officer should contact child protective services and remain at the residence until a protective services worker arrives or should take the child into custody pursuant to the Juvenile Act and/or the Child Protective Services Law.

J. Processing the Accused

1. A person arrested without a warrant for a domestic violence misdemeanour pursuant to 18 Pa. C.S. §2711 should be charged with any other crimes properly charged as a result of the incident. Likewise, a person arrested for violation of a protection from abuse order should be charged with any crimes properly charged as a result of the incident in which the violation occurred.

2. When arrest is made pursuant to 18 Pa. C.S. §2711 or for violation of a protection from abuse order, the accused should be taken before a district justice for preliminary arraignment without unnecessary delay. Under no circumstances should the arresting officer release the defendant before the preliminary arraignment.

3. The officer responsible for presenting the accused for preliminary arraignment should bring to the attention of the district attorney or the court any circumstances noted in the arrest report or known to the officer that argue for special conditions of bail authorized by 18 Pa. C.S. §2711 and Pa. R. Crim. P. 4013. Such conditions may include, but are not limited to: enjoining the defendant from abusing, harassing, or intimidating the victim; excluding the defendant from the home, school, and/or workplace of the victim; enjoining the defendant from contacting the victim in person or by telephone; and restraining the defendant from contact that will prevent the victim from performing the victim's normal daily activities.

4. All reports and other documents generated in the case should be marked "domestic incident" as an aid to processing the accused and to the identification of such cases.

K. Encouraging Follow-Through by Victims

1. The chief of police (in the jurisdiction in which the incident occurred) should designate a person to notify the victim of any conditions of bail imposed and to advise the victim of the right to request revocation of bail from the district attorney's office if the conditions are violated.

2. To the extent possible, the chief also should designate a person to make contact with victims of domestic incidents for the purpose of follow-up. The contact should be made within 30 days following the incident to determine whether subsequent violence or intimidation have occurred. If such acts have occurred, a designated officer should investigate the incident, proceeding in accordance with the provisions of this protocol.

L. Written Report and Data Collection

1. A written report clearly identified as a domestic incident report must be completed by the officer responding to any call covered by this protocol. The report should include the following information:

(a) Names, addresses, and phone numbers of the victim, the accused, any witnesses, and the caller.

(b) A second permanent address and telephone number for the victim (such as a close family member or a friend).

(c) A statement of the relationship between the victim and the accused.

(d) A narrative for the incident (including the date time, and whether the accused appeared intoxicated or under the influence of a controlled substance).

(e) What, if any, weapons were used or threatened to be used.

(f) A description of any injuries observed by the officer.

(g) A description of any injuries described by the victim but not observed by the officer and an indication that the injury was not observed.

(h) Documentation of any evidence that would tend to establish that a crime was committed.

(i) An indication of what arrest decision was made: a warrantless arrest; an arrest with a warrant; or no arrest.

(j) Whether the accused actually was arrested or whether there is an outstanding arrest warrant.

(k) The crimes with which the accused was charged.

(1) If the accused was arrested and arraigned, whether bail was set and any conditions of bail imposed.

(m) If the officer did not arrest or seek an arrest warrant even though arrest was authorized, a detailed explanation of the reasons for the officer's decision not to arrest.

(n) The names and ages of any children present in the household; their address and phone number if children were relocated.

(o) Notation of previous incidents of which the officer is personally aware.

(p) Notation of previous incidents reported by the victim or witnesses.

(q) If an officer was injured in the incident, the nature and circumstances of the injury.

2. Data collection.

(a) All written reports on the same person should be kept together or cross-referenced so that repeat domestic violence can be monitored.

(b) The written report, or another document (such as an index card) or computer entry generated from the written report, should become a domestic violence tracking report.

(c) To the extent possible, the domestic violence tracking report should be accessible to dispatchers and police officers.

9. WOMEN ONLY RAPE SQUADS (MALAYSIA) (TO BE ADDED)

10. GUYANA POLICE STATIONS (GUYANA) (TO BE ADDED)

III. Police

(B) INVESTIGATIVE TECHNIQUES

Section 8(b) of the Model Strategies urges Member States to develop investigative techniques that do not degrade women subjected to violence and minimize intrusion, while maintaining standards for the collection of the best evidence.

Examples of Promising Practices Relating to Investigative Techniques:

1. UNIFORM INVESTIGATIVE TECHNIQUES - ROYAL CANADIAN MOUNTED POLICE SEXUAL ASSAULT KITS (CANADA).....

2. INVESTIGATIVE TECHNIQUES OF SPECIALISED POLICE STATIONS - ALL WOMEN POLICE STATIONS (INDIA).....

3. INVESTIGATIVE TECHNIQUES BY SPECIALISE UNITS IN POLICE STATIONS - WOMEN'S CRIME CELLS (INDIA) .....

4. DNA TESTING FOR EVIDENCE AND LAW ENFORCEMENT (UNITED STATES OF AMERICA) .....

5. WOMEN ONLY POLICE STATIONS "THE DELEGACIAS" (BRAZIL) - *TO BE ADDED*

6. VICTIM EXAMINATION SUITES OR RAPE SUITE (UNITED KINGDOM) - *TO BE ADDED*

7. SOUTH AFRICAN POLICY ON SEXUAL VIOLENCE AND PILOT PROJECT ENTITLED "VICTIM CARE" (SOUTH AFRICA) - *TO BE ADDED*

1. UNIFORM INVESTIGATIVE TECHNIQUES - ROYAL CANADIAN MOUNTED POLICE SEXUAL ASSAULT KITS (CANADA)

This extract is dated but still provides a good guide as to how to ensure uniform investigative techniques. It is taken from the manual, “Confronting Violence A Manual for Commonwealth Action by the Commonwealth Secretariat

Synopsis

Extract.
INTRODUCTION
This kit, prepared by the Royal Canadian Mounted Police, contains four sexual assault examination kit for the attention of the physician/nurse patient's guide for female victims explaining procedures adopted by doctors, the police and legal and support services police officer's guide on handling evidence collected during examinations physician's guide for use in conjunction with the sexual assault examination Kit

SEXUAL ASSAULT EXAMINATION FIT
Attention: Physician/Nurse

This envelope contains all the instructions and forms to be used with the Sexual Assault Examination Kit.

THE KIT SHOULD BE USED ONLY:
- for the collection of specimens and clothing from a patient who is being treated for the trauma of sexual assault.
- when the occurrence is being reported to the police, and
- if the security seal on the Kit has NOT been broken.

DO NOT OPEN THE KIT UNTIL:
- the patient, guardian or relative of the patient has read and signed the Consent Form,
- the Sexual Assault History form and the Medical History form have been completed.

THIS ENVELOPE CONTAINS:
One Police Officer’s Guide.

One Patient's Guide, containing information for female victims.

Separate English and French versions of the Physician's Guide, containing all the necessary instructions for the physician and nurse using the Kit.

FORM 1 - Patient Consent (bilingual).

Separate English and French versions of the Physician's Guide, containing all the necessary instructions for the physician and nurse using the Kit.

Separate English and French versions of the following carbonless forms:

FORM 2 - Sexual Assault History
FORM 3 - Medical History
FORM 4 - Forensic Evidence Record

Separate English and French versions of the Specimen labels

USE ONLY "ONE" SHEET OF LABELS AS THE PATIENT REFERENCE NUMBERS MAY NOT BE THE SAME.

FORM 1 - PATIENT CONSENT

1. CONSENT TO MEDICAL EXAMINATION AND TREATMENT FOR THE EFFECTS OF A SEXUAL ASSAULT,

2. CONSENT TO MEDICO-LEGAL INVESTIGATION OF THE SEXUAL ASSAULT.

3. CONSENT TO DISCLOSURE OF THE RESULTS OF THE MEDICO-LEGAL EXAMINATION AND INVESTIGATION,

To: (name)
and to: (name) and all physicians and other persons associated with said Hospital.

I, (name of person giving consent) hereby authorise you to:

1. Examine and treat (name) for the effects of a sexual assault.

2. Conduct a medico-legal investigation for the purpose of assisting the police in apprehending and/or prosecuting the person(s) who committed the assault. This investigation will include a physical which may involve an examination of the mouth, vagina, anus and rectum; in addition it may include the removal and isolation of articles of clothing, scalp hair, foreign substances from the body surface, saliva, public hair, samples taken from the vagina, anus and rectum, and the collection of a blood specimen.

3. Inform the police that the sexual assault was committed, and provide them with any substances collected during the course of the medical investigation and any information and observations that might assist them in apprehending and/or prosecuting the person(s) who committed the assault.

I understand that I am free to consent to all or any part of the above, I also understand that my refusal to consent to either or both of Items 2 and 3 above will in no way result in denial of treatment for the effects of the assault.

I also understand that I am free to revoke all or any part of this consent at any time during the examination.

(Witness) (Signature of Patient)

(Date) (Signature of guardian or relative of patient where patient is under 16 years of age or is unable to consent by reason of mental or physical disability).

THIS FORM IS RETAINED BY THE HOSPITAL

Resource person or organization to contact for further information
Royal Canadian Mounted Police
1200 Vanier Parkway
Ottawa, Ontario
Tel: 613-993-2047
Fax: 613-998-2405
e-mail: crimeprev@rcmp.ccaps.com

Selected sources
1. Commonwealth Secretariat. (1992) **Confronting Violence: A Manual for Commonwealth Action (Revised).** (London: Commonwealth Secretariat)

2. INVESTIGATIVE TECHNIQUES OF SPECIALISED POLICE STATIONS - ALL WOMEN POLICE STATIONS (INDIA)

The following description of All Women Police Stations is taken from O.C. Sharma's article "Crimes against women" found in Police and Crimes Against Women: Some Emerging Issues and Challenges (cited below).

Synopsis

Description. The first all-women police station was set up in a conservative Muslim dominated area of Calicut in Kerala back in 1973 with "the idea of making the traditional women come out of her cocoon and give up her feminine reserve in approaching the police". Although the success of women cops in dealing with the cases in which a woman is either the complainant or the accused is still being debated by the state police officials, the experiment certainly proved a trend-setter. Kerala itself now has three Vanitha Police Stations, (as they are referred to in official parlance here) at Calicut, Trivandrum and Cochin, while Madhya Pradesh that had followed suit much later has six such police stations or Mahila thanas at Bhopal (opened on August 10, 1987), Gwalior (October 24, 1987), Indore (November 14, 1987) Raipur and Jabalpur (January 26, 1988) and Bilaspur (January 1, 1989). More recently, Rajasthan and Jammu and Kashmir have set up such police stations.

The concept of women police is yet to receive "whole-hearted" departmental acceptance. Even in Kerala which has the distinction of setting up the first all-women police station sixteen years ago, the 380 women police personnel (about one per cent of the total force) are reported to be a separate entity as yet, belonging to the armed reserve police. They are used, by and large, to arrest and disperse women demonstrators, keep female prisoners in custody, search them and raid cathouses. Cases involving grave crimes are not given to women in the force because of their "lack of familiarity with police procedures", as the Times of India reports, quoting an official. A study of women police stations in Madhya Pradesh, conducted by a senior IPS Officer of that state cadre, also reveals that "the opinions of senior police officers and the male subordinate police officers coincide on the point of lack of self confidence, training, knowledge of law and procedure and practical experience in the women police officers". However, as the study has further revealed, most of these officers considered the system of running all-women police stations quite desirable. Some of the other salient findings of the study are as follows:

1. The experiment has largely succeeded.
2. *Despite a low level of awareness there has been a high degree of response. Women police station has also served to enhance the social awareness of women in general about their rights.*
3. The introduction of this system has raised the confidence level of police women. They perceive themselves equal to this task, as compared with their male counterparts.

However, there may still be enough room for scepticism about the effectiveness of women police stations or cells and the public response to them. If statistics are of any indication, then it would be difficult perhaps to accept that "the experiment has largely succeeded". In Gwalior Mahila Thana, for instance, only 49 cases were filed in 1988. In Trivandrum's Vanitha Police Station, there had been a decline in the number of cases filed between 1985 and 1988. The number was 25 in 1985, 24 in 1986, 32 in 1987 and only 9 in 1988. Surprisingly, the decline had come at a time when the number of cases registered at other police stations in the state had gone up. One may attribute the drop in the number of cases to the women police settling many disputes amicably, without resorting to registering of cases. This is, however, possible only in cases of domestic squabbles or even eveteasing. But, what about the cases of dowry deaths, rape and molestation which have been increasing throughout the country? Even where the complaints are received in large number, as in Delhi, the performance of police women is not above doubts. For, 55 per cent of the 4,923 complaints received at Crime Women Cell of the Delhi Police in 1988 were not filed on various grounds, and only 14 per cent of the complaints registered were recommended for action.

Shukla's study has suggested a number of measures to improve the performance of women police. We mention below some of these measures which deserves immediate attention of the concerned authority:

1. A small element of police women should form part of each police station including those situated in rural areas. This will initially cause a problem of adjustment for both male and female police officers but with the passage of time it will find acceptance just as Women's role has been accepted in social, political, economical and other administrative fields.

2. For the sake of efficient cadre management, police women would form a separate cadre till Assistant Sub-Inspector level beyond which they should integrate in the general police force.

3. Police women being the main instrument in handling cases of social legislation need to be given special attitudinal training to equip themselves well for implementation of the Government policy regarding social reform.

Training apart, there is the need to provide women police with equal promotion opportunities like their male counterparts. There should also have great involvement of women police in police work. It is heartening to note that in Delhi women police are now being given an increasingly active role to play. It is well-known that Delhi is among the worst cities in the country and certainly worse than Calcutta in so far as safety of women is concerned. "Hence it is of particular importance', as S. Sahey, a renowned journalist, has pointed out, "that the Delhi Police should have tried to be particularly vigilant about harassment of girls, generally called eve-teasing. Special squads of women arc trying to deal with eve-teasers, occasionally at great personal risk to themselves .... The control-room is manned by them. And there is already a women station house officer".

Selected Sources

1. Sharma, O.C. “Crimes against women” in Police and Crimes Against Women: Some Emerging Issues and Challenges

3. INVESTIGATIVE TECHNIQUES BY SPECIALISE UNITS IN POLICE STATIONS - WOMEN’S CRIME CELLS (INDIA)

The following description of Women’s Crime Cells is taken from O.C. Sharma’s article “Crimes against women” found in book Police and Crimes Against Women: Some Emerging Issues and Challenges.

Synopsis

Description. Women cells which exclusively take up complaints from women in matters of dowry and harassment or other allied matters, have been constituted in some big cities to pay particular attention to crimes against women. The complaints are mostly based upon section 498(A) Indian Penal Code.
They hold a summary enquiry into the complaint and if the prima facie case is revealed the matter is forwarded to regular police for further investigation and necessary action. These cells do not have the power to launch prosecution against an offender on its own. They should be delegated the powers to investigate and launch prosecution against the offenders like regular Police.
What these women cells enjoy only advisory capacity and it also effect reconciliation in certain cases but if the other party fails to appear the women cell have no power to compel his attendance. Usually the cell send their reports to the police stations for further enquiry investigations.
All these measures are aimed at ameliorating the lot of the women but the purpose can only be served through proper enforcement of various enactments incorporated in law.
Unfortunately the only enforcement machinery is the Police - and our police organizations being what it is the enforcement is not been achieved satisfactorily.

For example, in Delhi, file special cell is designated as Crime (Women) cell. The cell mainly consists of female police members and investigates various types of crimes in which women are involved. The duties assigned to this cell are as under: --
(a) The Cell investigates all cases of murder of women where the crime is specifically related to the fact of the victims being a woman;
(b) The cell investigates all cases of rape of women
(c) The cell may monitor investigation of or investigate any other cases of deaths of women or other crimes against women such as cases under section 304, 305, 307, 306, 498-A, 406, 376, 354, 363, 366, I.P.C., eve-teasing etc., Dowry Prohibition Act.
(d) The cell may enquire into complaints directly received by it and where necessary, direct the local police to register and investigate cases which may arise out of such enquiries; and murder is actually accidental or suicidal or that a charge of rape is made on technical ground, it may return the case to the local police for further action.

The modalities of transfer of cases are on the following lines.

(a) All cases of murder and rape as enumerated in para (a) and (b) above will be automatically transferred to the cell by the District DCP concerned.
(b) Other important cases will be referred to the Addl. C.P. CID (Crime) through the concerned Addl. C.P. Range for transfer. Addl. C.I. Range may direct the transfer of cases for investigation to the cell.
(c) The DGP (Crime (Women) may suo moto take up any case for investigation if he/she is satisfied that there are ground for doing SO.
(d) When any complaint is received at a police station about a crime against a woman and enquiries/investigation is taken up at the police station, the police station will immediately inform the Crime (Women) cell. Similarly, the Crime (Women) cell will inform the police station wherever it takes up enquiries on any complaint. This will ensure that there is no duplication of work by the cell and the local police. When the police station receives intimation of enquiries being conducted at the cell it will refer all further papers/proceedings in the complaints to the cell. The cell will have the option to take up any enquiry from the police station when it receives intimation of the same.

The Crime Against Women cell of Delhi Police is a unique branch of the Delhi Police conceived to provide special assistance to women in distress. This cell has been attending to different kinds of complaints from the women with emphasis on punitive, as well as corrective and counselling aspects. They contribute in a big way restoration of 'Stridhan' to the complainants, registration of cases under the relevant sections of law, and setting family disputes and conflicts ending in compromise. Further, the cell has also been actively pursuing investigation of heinous offences like dowry deaths and murders in which women are victims. The cell also tries to educate women and encourages them to come out openly against any harassment. Besides the Crime (W) cell in the police Headquarter, there are 9 women's cells operating in the 9 Police District Headquarters. The district cell has a lady Inspector as the overall in charge. The district women's cells have been functioning since December 1986.

The special cell in U.P. is known as Mahila Sahita Prakoshitha. It was created due to dire need to combat atrocities against women and increasing dowry deaths in the State and an equally large number of incidents which affected the married life of the women. 'Mahila Sahita Prakoshitha' is to ensure the implementation of various enactments on this subject and to launch prosecution against the culprits. To curb the menace of dowry deaths, the Govt. of U.P. had taken a decision to authorise the police to investigate such cases where the married women commit suicide, or make abortive attempt to commit suicide or die in suspicious circumstances within ten years of their marriage.

The State Govt. have also established the branch of 'Mahila Sahita Prakoshitha' in all the offices of Supdt. of Police. Anchorage districts, and the task of these branches is to scrutinise the crimes against women analytically and in detail.

The Mahila Sahita Prakoshitha CID, UP, Lucknow also compile information of crimes against women under various heads of all the districts of up and takes follow up action to ensure proper and timely steps.

Selected sources

1. Sharma, O.C. “Crimes against women” in Police and Crimes Against Women: Some Emerging Issues and Challenges

4. DNA TESTING FOR EVIDENCE AND LAW ENFORCEMENT (UNITED STATES OF AMERICA)

This description is taken from an article found on the web (www.ncjrs.org/txtfiles/170596.txt) entitled The Unrealized Potential of DNA Testing found in Research in Brief, June 1998 by Victor Walter Weeden and John W. Hicks on the subject: DNA testing, evidence, technology in law enforcement.

Synopsis

Text. DNA testing has become an established part of criminal justice procedure, and the admissibility of the test results in court has become routine. Although DNA testing has accomplished a great deal in opening up new sources of forensic evidence, its full potential to identify perpetrators and exonerate people falsely convicted has yet to be realized. For this to be done requires further advances in testing technology and in systems to collect and process the evidence. These advances are now under way.

The development of forensic DNA testing has expanded the types of useful biological evidence. In addition to semen and blood, such substances as saliva, teeth, and bones can be sources of DNA. These sources are expanding still further, as researchers explore the potential of other biological substances, such as hair, skin cells, and fingerprints.

Even though the sources are multiplying, the use of DNA evidence is currently limited because much of what could be tested remains unrecovered and unanalyzed. The numbers are increasing, but of all sexual assault convictions for which DNA collection is legislatively mandated, samples were obtained from less than half of the individuals, and of the cumulative number of DNA samples obtained, only 20 percent have been processed.

The reasons for the lag in evidence recovery and processing are scarcity of law enforcement resources, lab backlogs caused by insufficient funding, and time-consuming and costly testing methods. Given the deadlines imposed by the courts, it is not possible to analyze all the potential evidentiary specimens submitted.

More rapid processing of DNA evidence should make it possible to overcome these obstacles within the next few years as a result of improvements in technology. The turnaround time of RFLP (restriction fragment length polymorphism) analysis has recently been reduced. More promising is the anticipated replacement of RFLP by PCR (polymerase chain reaction)-based technology, which takes only days to perform.

The development of DNA databases and networks can substantially augment DNA profiling. In the United States, the concept of DNA databanking is still rudimentary, especially compared to the United Kingdom. The U.S. situation is improving, however, because the FBI-developed CODIS (Combined DNA Index System) and Federal support for State DNA databanking and compatible testing systems.

Initial collection of evidence is improving as a result of the establishment in many jurisdictions of more structured crime-scene teams and more formalized evidence collection procedures.

The status of databanking

In the United States. Today almost all States have legislation related to DNA databanking, most of it focusing on collecting and testing DNA from individuals convicted of sexual assaults and often homicides. In some cases the legislation requires collection from all convicted felons. Although DNA databanking was proposed almost 10 years ago, and although databanking has been almost universally adopted at the State level, the concept of its development in this country is still rudimentary.

The limitations are partly due to the definition of offender categories in the legislation. For example, rapists who plead to a lesser offense not covered by a particular State databanking law are therefore not subject to it. Similarly, in some States DNA collection laws are inapplicable to juveniles involved in the criminal justice system. In other instances DNA is not collected until an offender is released, instead of at intake, making it impossible to match the offender's DNA to that in a case opened during incarceration. Other problems stem from lack of funding and the incompatibility of the States' genetic testing systems. Of the 47 States that have passed legislation, the program is operational in only 36, and of that number most programs are severely backlogged.

In the United Kingdom. Compared to the United States, the United Kingdom has moved far more aggressively to establish a national DNA criminal database. Specimens are collected from a wider range of offense categories than the sexual assault category targeted by most State programs in the United States. The number of DNA profiles entered thus far in the United Kingdom is now nearly 200,000 [7] with an expected increase to more than 5 million specimens in the next decade.

The United Kingdom has taken other steps to increase the utility of its database. Specimens are taken upon arrest rather than, as in virtually all the States in the United States, on conviction. Databank staff tell police investigators the chances are about 1 in 2 of finding the perpetrator through a DNA match.

In testing technology, the United Kingdom has switched completely to automated STR, which is able to discriminate among every man, woman, and child in the country. By contrast, most databasing in the United States uses RFLP results. (For an explanation of RFLP and related terms, see "A Primer of DNA Testing Technology.") Laboratory processes in the United Kingdom have been streamlined and automated and therefore are generally more efficient than those at the U.S. State level.

The most important distinction between the two countries is that the United Kingdom views databanking as a primary investigative tool. It is used, for example, for "mass screens" or "intelligence-led screens," in which targeted canvassing is conducted in a certain area or among a certain pool of suspects. The approach has been used with great success: Since 1995 at least 17 high-profile cases have been solved in this fashion.

Officials in the United Kingdom believe that their DNA testing program has actually reduced overall law enforcement costs by eliminating extensive traditional police investigations in some cases.

Toward a national system? Because the United Kingdom databanking system is based nationally, it is central and uniform, not an aggregate of many different, incompatible State systems. Our "patchwork" system is improving, however, because of systems developed by the FBI, Federal support for State DNA databanking, and the convergence of DNA typing methods.

The CODIS system (Combined DNA Index System) is a national investigative support database. Developed by the FBI, it is used in the national (NDIS), State (SDIS), and local (LDIS) DNA Index System networks to link the typing results from unsolved crime cases in multiple jurisdictions or to those convicted of offenses specified in the DNA databanking laws passed in 47 States. By alerting investigators to similarities among unsolved crimes, CODIS can aid in apprehending perpetrators who commit a series of crimes and in this way prevent other offenses by the same person. The 77 laboratories in the 36 States participating in CODIS have produced 126 case-to-case "hits" and 76 case-to-offender "hits."

For CODIS to work efficiently, all forensic laboratories must use reliable and compatible DNA test systems so that data can be compared. To that end the Violent Crime Control and Law Enforcement Act of 1994 promotes uniform standards for forensic DNA testing and provides Federal support to State and local law enforcement agencies to improve their DNA testing capabilities so they can participate in CODIS. Also, to establish minimal compatibility among laboratories, the FBI has promulgated a core set of RFLP genetic loci (specific places in DNA) and will promulgate a core set of STR loci.

Selected sources

1. Weeden, Victor Walter and John W. Hicks. *The Unrealized Potential of DNA Testing* found in Research in Brief, June 1998 by (www.ncjrs.org/txtfiles/170596.txt)

5. WOMEN ONLY POLICE STATIONS “THE DELEGACIAS” (BRAZIL) (TO BE ADDED)

6. VICTIM EXAMINATION SUITES OR RAPE SUITE (UNITED KINGDOM) (TO BE ADDED)

7. SOUTH AFRICAN POLICY ON SEXUAL VIOLENCE AND PILOT PROJECT ENTITLED “VICTIM CARE” (SOUTH AFRICA) (TO BE ADDED)

III. Police

(C) POLICE PROCEDURES AND SAFETY

Section 8(c) of the Model Strategies urges Member States to ensure that police procedures and decisions take into account the need for safety of the victim, family members and others, and that

these procedures also prevent further acts of violence.

Examples of Promising Practices Relating to Police Procedures and Safety:

1. DOMESTIC VIOLENCE EMERGENCY RESPONSE SYSTEM (DVERS) (CANADA).....

2. METRO-AREA DISTRICT ATTORNEY'S OFFICE AND AT&T PROVIDE HIGH RISK WOMEN WITH WIRELESS PHONES (UNITED STATES OF AMERICA) .....

3. SAFETY AUDITS AND THE DULUTH MODEL (UNITED STATES OF AMERICA).....

4. GARDA SIOCHANA POLICY ON DOMESTIC VIOLENCE INTERCENTION, 1994 (REVISED 1997) (IRELAND) - *TO BE ADDED*

1. DOMESTIC VIOLENCE EMERGENCY RESPONSE SYSTEM (DVERS) (CANADA)

The Domestic Violence Emergency Response System is a silent safety alarm that can be worn by women at risk of violence linking them to the police when activated. This description is taken from the Via-à-Vis Fall issue: 1991 v.9 n.3.

Synopsis

Text. Advances in technology have now created a silent safety alarm, the Domestic Violence Emergency Response System (DVERS). This small emergency alarm device can be worn by a woman at all times and can link a battered woman to police within seconds. It was developed by ADT Security Systems and is provided free-of-charge with the co-operation of the Manitoba Telephone System. ADT covers the installation cost and the yearly maintenance fee.

Distribution of the device has been a co-operative effort by the Winnipeg City Police, EVOLVE (program for men who batter), YM-YWCA Osborne House, Immigrant Women's Counselling Service and Aboriginal Women's Services. Fearful that we might deny a woman in need, or generate a false sense of security, the following criteria for distribution were established:

- The situation is considered high risk and other steps to ensure the woman's protection have been taken. High risk situations include a threat of physical violence or past history of physical violence and a risk of re-occurrence;
- The woman must be prepared to use such a device;
- The abusive partner must not be living with the woman; and,
- The woman must be willing to engage in protection planning and follow-through. For example, she must be prepared to contact the police, appear in court as a witness, obtain an unlisted telephone number if necessary, obtain a restraining order, and take other steps as necessary to keep herself safe.

2. METRO-AREA DISTRICT ATTORNEY'S OFFICE AND AT&T PROVIDE HIGH RISK WOMEN WITH WIRELESS PHONES (UNITED STATES OF AMERICA)

This information is taken from the following website:
http://www.pathfmdor.com/mrmey/latest/press/PW/199gJun24/34.ht

Synopsis

Description. AT&T Wireless Services Provides 25 Phones Through Metro Area District Attorneys' Offices for Use by High-Risk Victims of Domestic Violence. District Attorneys' victim advocate programs in the First Judicial District (Jefferson and Gilpin Counties), Second Judicial District (Denver County), 17th Judicial District (Adams

County), and 18th Judicial District (Arapahoe, Douglas, Elbert, and Lincoln Counties) joined with AT&T Wireless Services to provide wireless phones and service to victims of domestic violence as part of a new Domestic Violence Prevention Program.

AT&T Wireless Services is donating a total of 25 phones to the victim advocate programs through the District Attorney's offices. The equipment and service will be used to give domestic violence victims added protection, mobility, and virtual access to 9-1-1. The wireless phones are pre-programmed for 9-1-1 dialing only. In the event of a threatening situation or an emergency, the victims can use the wireless phones to call 9-1-1.

Recipients of the wireless phones will be identified by the victim advocate programs in each judicial district. Eligibility criteria include being a resident of the judicial district, being a victim of domestic abuse or stalking, and being referred to the program through a judicial district's victims assistance program or other recognized victim support group.

Currently the First, 17th and 18th Judicial District have five phones and the Second Judicial District has 10 phones through the Domestic Violence Prevention Program. This partnership between the District Attorneys' offices and AT&T Wireless Services is open-ended and victim advocate programs may request additional phones and service as necessary. The Domestic Violence Prevention Program is currently valued at $10,000 and is pan of AT&T Wireless Services' corporate giving program which includes Wireless For The Community, AT&T Safe Schools Program, a loaner phone program, and the AT&T Learning Network.

Resource person or organization to contact for further information
Mary Ireland of AT&T Wireless Services
Telephone: (303) 475-2496
Email: mary.ireland@attws.com/CO: AT&T Wireless Services; Denver District Attorney; Domestic Violence

3. SAFETY AUDITS AND THE DULUTH MODEL (UNITED STATES OF AMERICA)

Excerpts from Ellen Pence and Coral McDonnell, "Developing Policies And Protocols," Ellen Pence and Melanie Shepard, eds., Coordinated Community Response to Domestic Violence: Lessons from Duluth, Newbury Park, Ca,: Sage Publications, 1998.

Synopsis. In Duluth, policy development has evolved over a long period of time during which changes and some of the resulting conflict were interspersed with many inactive periods. Policymaking is as much about process as it is about content, and we have learned over the years that the process needs to be inclusive and based on dialogue, not on debate. It must be attentive to what practitioners know, what research indicates, and what victims experience. Finally, the process must be open to scrutiny and evaluation. We list here some of the lessons we have learned in almost two decades of policy development in Duluth.

We end this discussion on policy making by providing the template we use as the outline for any new policy and the checklist we use to think through a policy. This template provides an overview of items that should be covered in a complete policy. We provide it with a warning: If you want practitioners to know what is in a policy keep it brief and to the point. A policy should have two versions - the practitioner's version and the administration's version. The practitioner's version includes items in I and II. The administration's version includes items in I, II, and III.

I. The intent and rationale for the policy

II. Guidelines for processing cases
- a) what practitioners do and under what circumstances
- b) describe procedures, what forms to use
- c) what, when, and how information should be shared with others
- d) applicable laws, definitions, authority

III. Supervision/monitoring
- a) how policy will be monitored by agency

b) steps to ensure compliance
c) record sharing for external monitoring (how, with whom)

The following checklist can help policymakers think through how a policy organizes workers to think about and act on these unique criminal cases.

- Focus on changing the institution, not the victims
- Focus on practices, not people
- Balance between need to standardize and need to be attentive to particulars of a case
- Process of reform should be built on cooperative relationships
- Nobody owns the whole truth
- Build methods of ensuring compliance with procedures into policy
- Link practitioners to those beyond the next worker in the system
- Account for offenders' level of danger
- Assume victims will be vulnerable to consequences if they participate in confronting the offenders
- Assume offenders are likely to batter in future relationships
- Document pattern and history of abuse when and wherever possible
- Account for how
    a) categories help and hinder understanding of the case
    b) practitioners will get around the intent of the policy
    c) offenders will get around the intent of the policy
    d) the policy/response will be used against victims of battering
    e) different levels of dangerousness and risk require different levels of response
    f) punishment/sanction will impact offenders
    g) rehabilitation/programming can be used against victims
    h) victims use violence against their abusers
    i) slowness affects victims' safety
    j) children are affected by violence
    k) offenders can use children to control victims
    1) institution sends double messages about children's exposure to violence
- Decide who needs information, how and when they get it
- Distinguish between differing impacts of intervention depending on social status of victim/offender
- Put it in on the firm - don't rely on memory
- Develop standardising procedures that focus on safety (i.e., matrix, police report form, control log, dispatching screen)
- Don't turn practitioners into robots
- Focus training on why and how to carry out new practices-case studies
- Focus assessment of institution on what frames a practitioner's response:
    a) technology and resources
    b) rules and regulations
    c) administrative forms and procedures
    d) linkages and communication to others in the system
    e) educating and training
    f) social status of victims, offenders, and practitioners
- Policy should cover:
    a) what to do under specified circumstances
    b) guidelines to appropriate levels of response
    c) methods to ensure practitioner's compliance (tracking)
    d) guidelines for making exceptions to the policy
    e) how to document actions
    f) how and with whom to share information on a case

If policy is to work for the greater good, then it should be carried out in ways that protect individual victims as much as possible.

4. GARDA SIOCHANA POLICY ON DOMESTIC VIOLENCE INTERVENTION, 1994 (REVISED 1997) (IRELAND) (TO BE ADDED)

III Police

(D) PROMPT POLICE RESPONSES

Section 8(d) of the Model Strategies urges Member States, as appropriate within the framework of their national systems, to empower the police to respond promptly to incidents of violence against women.

Examples of Promising Practices Relating to Prompt Police Responses:

TO BE ADDED

III. Police

(E) ACCOUNTABILITY OF POLICE

Section 8(c) of the Model Strategies urges Member States to ensure that the exercise of police powers is undertaken according to the rule of law and codes of conduct, and that the police may be held accountable for violating these standards.

Examples of Promising Practices Relating to Accountability of Police:

1. WOMEN'S COMMISSION IN INDIA (INDIA) .....

2. "DOMESTIC VIOLENCE" INCIDENT FORMS (AUSTRALIA) .....

3. DOMESTIC VIOLENCE UNITS (AUSTRALIA) .....

4. DIVISIONAL DOMESTIC VIOLENCE LIAISON OFFICER BY THE ROYAL ULSTER CONSTABULARY IN NORTHERN IRELAND (IRELAND) .....

5. INTERNATIONAL ASSOCIATION OF LAW ENFORCEMENT INTELLIGENCE ANALYSTS: IALEIA CODE OF ETHICS .....

6. ONTARIO CODE OF CONDUCT FOR POLICE - CODE OF CONDUCT (POLICE SERVICES ACT) (CANADA) .....

7. FAMILY VIOLENCE FOLLOW-UP TEAM IN EDMONTON (CANADA) .....

8. COMPLAINTS DIRECTORATE WITHIN THE SOUTH AFRICAN POLICE FORCE (SOUTH AFIRICA) - *TO BE ADDED*

1. WOMEN'S COMMISSION IN INDIA (INDIA)

Description. The Government of India has already set up the Women Commission and the move is now on to constitute a Human Rights Commission. The Government of West Bengal has also set up the Women Commission,

and sooner or later, the other State Governments will follow the suit. Such commissions would henceforth keep a continuous vigil on police. Hence, the police will now require to be more careful to observe the basic requirements of human rights in their dealing with the accused as well as the victims of crimes in general, and the women accused and victims in particular. This calls for a radical change in the police attitude and culture through regular and intensive training and other devices.

2. "DOMESTIC VIOLENCE" INCIDENT FORMS (AUSTRALIA)

Description. Frequent and sustained criticism of the police response to male violence has often led to the reappraisal of police policy and procedures. One means of attempting to improve the police response, particularly the conception of violence against women and the degree of police accountability, has involved the introduction of specific mechanisms to record the incidence of 'domestic violence'. This initiative has frequently taken the form of 'domestic violence' report forms.

These incident-specific recording techniques may provide a more accurate index of the number and nature of calls to police than their traditional counterparts; for example, police log books record a range of incidents coming to the attention of police. Consequently, male violence may appear amongst an array of police duties recorded in these documents. The existence of 'domestic violence' report forms may heighten the police consciousness of these incidents and alter both perceptions and practices. Hence, the data generated by the police may more accurately reflect their work in this area. However, there are often no checking procedures introduced to ascertain the reliability of the data recorded on the forms. It is likely that the absence of such checks would result in an underestimation of the volume of incidents.

Evaluation. A small amount of Australian research has been conducted using the 'domestic violence' incident forms. One study took place in South Australia. Jacobs (1986) noted that the forms collected during a three month survey period provided a profile of 'domestic violence' incidents involving the police. It was found that most incidents involved a married woman complaining of violence from her husband. In addition, in over a third of cases, the male was unemployed and in approximately half the cases, the woman was occupied with home duties. Alcohol was present in about half the incidents and women were also injured in about half the incidents.

Whilst these results possibly provide valuable insights into the type of incident to which police are exposed in South Australia, Jacobs (1986, p.510) cautioned for the need to take into account 'the large number of calls made to police, complaining of domestic violence, that were either not acted upon at the time, or not documented by the submission of a DVR [domestic violence' report form]
In a study of New Zealand police, Ford (1986) examined the completed 'domestic dispute' incident forms collected over a six month period. Ford maintained that prior to the introduction of these forms police had systematically failed to record 'domestic disputes'. Where they had been formally registered, they were often coded as minor police incidents. Ford (1986, p.23) commented: In point of fact this coding was considered to be very misleading and helped to continue the myth that such disputes were 'private' or within family affairs. In many cases it is known that offences of a serious nature were being committed, yet ignored.

3. DOMESTIC VIOLENCE UNITS (AUSTRALIA)

This description comes from an article by Tiffany van de Werken, a Research and Policy Officer of the Northern Territory Police, Fire and Emergency Services "Domestic Violence - Policing the "new crime" in the Northern Territory" located on the Australian Institute of Criminology web cite www.aic.gov.au.

Synopsis

Description. Perhaps the most significant achievement of the Northern Territory Police with regard to policing domestic violence has been the establishment of the Domestic Violence Unit (DVU). The DVU was set up for a six-month pilot period beginning in August 1994 to provide operational police officers and victims of domestic violence with support, advice and referral. Due to resource constraints, services were initially limited to one of the sectors in the Greater Darwin Area (Casuarina). This program followed closely on the heels of, and is part of, the Northern Territory Government's April 1994 Domestic / Violence Strategy, which included (but was not limited to) a massive public education campaign comprising explicit television commercials.

The DVU began work at the beginning of August with one member, a Sergeant, assigned on a part-time basis (that is, in addition to normal patrols). However, within a short three days, it became clear that this was not nearly sufficient. Fortunately, the Unit was relocated to headquarters, and the Sergeant was assigned on a full-time basis. Removing the Unit from the local police station was instrumental in delineating the Unit's domestic violence duties from general operational duties.

During the first week of operation, the objectives and aims of the Unit were formulated according to identified gaps in service delivery. In the second week, General Duties police officers were re-instructed on the use of complaint codes for the computer dispatch system in order to determine how much domestic violence was being reported by the public; previously, it is likely that many domestic violence calls were masked by the use of complaint codes such as "disturbance" or "noise complaint". Momentum increased immediately; as soon as the Unit was provided with a title and phone number, police officers and community agencies began calling for advice and assistance. It quickly became apparent that the workload was far too demanding for one person alone, arid within three weeks of the establishment of the Unit, two additional police officers were assigned, also on a full-time basis.

The six months allocated as the lag period for the DVU were eminently successful. All of the stated objectives were achieved, as detailed in the following paragraphs. The successes can be attributed to many factors, some of which will be discussed at a later point.

The listed achievements of the DVU pilot program are as follows:
1. General Orders - Prior to December 1994, standard operating procedures (General Orders) relating to domestic incidents were included under Civil Disputes and Inquiries. Although the domestic incident section in this General Order was quite extensive and stated that "Dispute mediation shall not be used as a substitute for appropriate criminal proceedings ... where physical violence has occurred", in late 1994 it was deemed appropriate to develop a separate and quite detailed General Order instructing officers specifically on domestic and family violence incidents. The new General Order incorporated recent legislative initiatives and the role of the newly-established DVU, and reflected changing attitudes toward the issue.

2. Additionally, by November 1994, a Domestic Violence Manual was implemented and all police officers made aware of its existence and contents.

3. Minimum response - One of the first tasks undertaken by the DVU was to gather relevant materials and assemble Family Incident Resource Kits for officers' reference, consolidating all relevant legislation, policy and procedure information, and resource services and agency pamphlets regarding domestic violence. The Kit also contained supplies of a domestic violence handout and several different pamphlets for public distribution.

Officers were instructed, via the Domestic Violence General Order and Domestic Violence Manual, that a "minimum response" was required when attending domestic violence incidents. The minimum response instructs that domestic violence is a criminal offence and police are bound by law to intervene effectively. It states that police officers are required to inquire as to the existence of any restraining order or similar, check firearms records of the offender, provide transport or other assistance where possible and appropriate, provide a domestic violence emergency contact card to the victim, explain the relevant legislation and options available to the victim, make application for a restraining order in each incident where it is appropriate, and arrest or summons the offender when enough evidence exists to make a case for prosecution.

4. Liaison with support agencies and victims - Personal contact was made with various victim support agencies in order to inform support workers of the existence, aims and role of the DVU. These agencies were won over quickly, due to the services that were being provided by the DVU, including the dissemination of the resource kit, production

of a service agency directory and statistics for the Darwin area that had previously been unavailable, all of which the agencies could utilise for their own purposes.

Protocols were established and maintained with support agencies, and the DVU became a successful and well utilized point of contact between police officers, support agencies and victims. During the six-month period, the DVU responded to a total of 505 calls from police officers, victims and service agencies. Additionally, where there had previously been quite a number of complaints against police for their handling of domestic violence incidents, the DVU became a mediator, enabling complaints to be sorted out within 24 hours, and without recourse to formal complaint channels.

The DVU also made contact with victims of domestic violence directly. In every domestic violence incident attended by police in the pilot area (a total of 226), DVIJ members contacted victims within 48 hours, firstly to ensure that they were satisfied with the police response and that the minimum response requirements had been met, and secondly to further explain their options and assist with referrals at a less emotional and traumatic time. This support was received very favourably by victims, who often subsequently contacted the DVU for further advice and assistance long after the initial incident.

Evaluation. The achievements of the DVU over the pilot period, as detailed above, were met with a great deal of satisfaction by all parties involved, including victims, police officers, senior management, service agencies and government. The DVU was thus granted permanent status, and over the following 12 months or so its staff numbers were increased and its activities were extended to the remaining Greater Darwin Area. Since the end of the pilot program in January 1995, further achievements have been documented, building on the foundations laid by the pilot program. Subsequent amendments to both the Police General Orders and domestic violence-related legislation have enabled more streamlined and functional procedures, as well as closing gaps that have been identified since the commencement of policy documents. For example in order to better cater to the needs of Aboriginal victims of domestic violence, the Domestic Violence Act now includes a wider range of relationships such as great-great relatives. Additionally, important changes have been made to the firearms legislation which enable police to seize firearms at the time of a domestic violence incident, and firearms licences to be revoked as part of a restraining order.

Minimum response evaluations and follow up of victims by DVU members is ongoing, and so far there have been no complaints regarding police attitude or service that could not be easily resolved. Domestic violence training has also been ongoing, and has included both recruits and serving officers, including, Police Auxiliaries and Aboriginal Community Police Officers. A revised and much improved Domestic Violence Training Manual was completed and implemented in April 1995 and was again revised in September 1997. Course information includes economic, social and psychological aspects of domestic violence, legislation, government policy and police policy, and violence against Aboriginal women. Additionally, where in the past officers had no clear direction as to what was required on attending a domestic violence incident, domestic violence training, backed up by policy and a more supportive culture, now emphasises that officers have a policing role at incidents, not a mediating one organisational The networks set up by the DVU also provide officers with a deftrote avenue for referral, victims can be referred either to the DVU, to a service agency, or to both.

The permanent full-time DVU staff now number seven, and they are assisted in the field by 42 Domestic Violence Liaison Officers (DVLOs) at police stations throughout the Territory. DVLOs are responsible for compiling statistics for their particular police districts, answering queries from the public, victims and other officers on aspects of domestic violence, and ensuring that minimum response is achieved. DVLOs are also involved in training the police officers in their districts, and a DVLO training course has been developed to assist in this regard. Currently, DVLO duties are performed in addition to general patrol duties, but approval is being sought to have some designated time set aside. A three full-time member Unit has been approved for Alice Springs. Importantly, quite a number of DVU officers and DVLOs are male.

An Aboriginal Liaison Officer forms part of the DVU in both Darwin and Alice Springs and, in conjunction with other police officers, contributes to. the police response to the objectives of the Government' s Aboriginal Family Violence Strategy. DVLOs stationed in remote areas are also involved in implementing the Strategy. A more streamlined method of obtaining restraining orders in remote locations has been developed from ongoing dialogue between Aboriginal communities and Unit members.

Recently, the DVU in Darwin has also been joined by an Ethnic Liaison Officer to address the specific needs of victims from Non-English Speaking Backgrounds. The Ethnic Liaison Officer is responsible for liaising with the Office of Ethnic Affairs, contributing to the newsletter of that organisation, progressively contacting ethnic groups and disseminating information to relevant community groups.

The database established for the duration of the pilot program was maintained for a time and expanded to cover the Greater Darwin Area; however it was found to be quite cumbersome. A large proportion of statistical analysis was compiled manually, and depended heavily upon information collected and forwarded to the Unit by DVLOs throughout the Territory; as a result it was likely to be somewhat less than accurate. Following an application to the National Campaign Against Violence and Crime (NCAVAC), the Northern Territory Police was successful in obtaining funding to implement a Territory-wide police domestic violence database called the Domestic Violence Information System. This system will enhance the accuracy of statistics, as well as provide a more reliable and central source of information, in order to monitor and map domestic violence trends. Regular discussion with the Office of Women' s Policy ensures that the information collected is useful and comprehensive.

DVU members monitor the database to ensure not only that officers attending incidents are aware of repeat offences or incidents, but also in order to compile history information. If after the third time police attend a residence there is still insufficient evidence to west an offender, the history information is used to intervene and take out a restraining order. Thus, if police are called to attend a fourth time, they have the power to arrest and charge the offender with breach of the order, even if there is still insufficient evidence to arrest for something more serious such as assault. Police are now also aided by the presence of offenders' photographs on the database.

Factors contributing to DVU achievements

Although the Northern Territory, in the past, has perhaps been quite slow in making changes in the field of policing domestic violence, Northern Territory Police now have every reason to be proud of the many achievements reached in a very short period of 18 months to two years. However, it is also certainly true that there have been many contributing factors to these achievements, several of which have come from outside the organisation.

The Northern Territory Government announced its Domestic Violence Strategy in April 1994, a major impetus in the process of change. The public education campaign, launched by the Northern Territory Government shortly after the announcement, is likely to have had an impact on domestic violence reporting behaviour and associated community attitudes, and thus has served to assist police in initiatives directed at improving police services for victims of domestic violence. The favourable political climate and slowly changing community attitudes resulted in an environment conducive to change.

Other factors contributing to the process, and again demonstrating the cooperative nature of the achievements, include some funding from the Living With Alcohol program (part of Territory Health Services), and significant assistance from the Office of Women's Policy.

Contributing factors internal to police include the support provided throughout the organisation, particularly from senior management and the direct supervisors of the Domestic Violence Unit. The Unit was provided with considerable autonomy, discretion and trust; initiatives that were developed and implemented would not have succeeded without these elements. Importantly, supervisory staff entered the pilot program with no preconceived ideas about the role or function of the Unit, but believed in its inherent worthiness. Thus, they did not try to dictate what should be done, but strongly supported initiatives (such as policy changes and amendments to relevant forms) and made every attempt to ensure these changes were implemented immediately. The rapidity with which change took place was also aided by the many support staff within the organisation who believed in the Unit and voluntarily contributed their time in addition to their own duties.

The small population of the Northern Territory enabled lateral communication to take place. Where in larger jurisdictions it is likely that police officers would be required to request assistance or cooperation through formal channels with persons unknown to them, in a small organisation such as Northern Territory Police, much communication takes place in person between people who know each other. This contributed to speedy achievement of objectives.

Although all of these factors continue to contribute to the Northern Territory Police's achievements in policing domestic violence, the most impressive effort was exerted by the Unit itself. The drive, dedication and commitment

of the three original members of the Unit were integral to the success of the Unit. They believed in what they were trying to achieve, and committed themselves above and beyond call of duty to the goals of the program. Each of the members had a sound operational background which enhanced the capabilities of the Unit to assist patrol officers in dealing with domestic violence. In 1995, the Sergeant in charge of the Unit, in appreciation her involvement in policing domestic violence, was presented with the Northern Territory Government Women's Fellowship Award.

Resources

One contingency which also aided the Unit's success was the limited resources required for the initial establishment of the Unit, which further ensured support from senior management. As mentioned, a database was set up specifically for the recording of domestic violence information, which required a computer terminal and associated software. However, this was the major cost involved, apart from the reduction of operational police by the three members who were assigned full-time to the Unit.

The costs of setting up the Unit have been offset to a significant extent by the operational benefits and savings directly resulting from the existence of the Unit, including relieving patrol officers from having to follow up domestic violence incidents, and providing police officers with clear direction when attending incidents so that time is not wasted with tasks better taken on by other parties (for example counselling); literally hours have been saved for each incident where in the past police officers needed to liaise with a service agency on behalf of the victim. Additionally, the efforts of the DVU in establishing sufficient credibility and two-way communication with service agencies have saved months of long, labour intensive investigations into domestic violence-related complaints against police.

Impediments to the success of the DVU

Most of the difficulties experienced have been discussed in the opening paragraphs; however, several specific problems that have been encountered at one stage or another threatened the success of the initiatives, and some remain problematic.

Being a part of a relatively small community has been beneficial in providing coverage of the problem of domestic violence, and communicating government and police strategies to the public, but it has also bee an inhibiting factor. In many sectors of the community the attitude that domestic violence is a private matter that should be dealt with by the family with no interference from outside agencies, is perhaps mot evident than it would be, for example, in a largely populated community.

As could be expected, not all Northern Territory police officers embraced the changes with enthusiasm, and prevailing attitudes have been a problem within the organisation as well as outside it. While the Unit received unexpected levels of support from both senior and operational officers, there were also enough sceptics to inhibit progress somewhat. Many perceived the program as a waste of resources better used elsewhere; there was a belief in some quarters that domestic violence is a "problem" but not a crime and therefore does not warrant the dedication of fiscal and human resources. The success of the DVU depended heavily upon several key personnel at appropriately senior levels to provide enough momentum to overcome much of the resistance initially encountered.

On a more pragmatic level, it is very difficult to police a problem, in this instance domestic violence, in remote communities, particularly one which is so often unreported; language and cultural barriers exacerbate the situation. However, perhaps the most pronounced problem with regard to policing domestic violence in remote areas remains the sporadic nature of court dates and the requirement of the complainant to travel to court to have a restraining order confirmed by a Magistrate. This can cause 1ol delays, often involves hundreds of kilometres of travel, and therefore represents high costs in terms of time and money.

Although minimal resources were required, financial constraints have been an impediment since the inception of the DVU, as for the most part the Unit was not included in the budgeting process. Since the end of the pilot program, the size of the Unit has gradually grown to seven members, and each financial year has resulted in more personnel than anticipated.

Another major hurdle was overcoming the "us and them" attitudes on the part of women's shelters and support services. Some agencies had been attempting changes in the area of domestic violence for up to four years, so when the DVU was established, a great deal of scepticism was expressed as to the commitment and effectiveness of any

changes initiated by police. However, the DVU members soon overcame these barriers with a lot of discussion, persuasion and, most importantly, exerting the effort required to achieve the Unit' s objectives.

Lessons learned

The most salient lesson that has been learned is that policing domestic violence, or any crime for that matter, cannot be achieved in isolation. The DVU depended heavily upon the support of both individual police officers and the Northern Territory Police Force, which in turn depended upon cooperation and support from the community, other agencies and the Northern Territory Government as a whole.

It was also discovered in the course of establishing the DVU that existing infrastructure cannot always be relied upon. Sometimes a pioneering approach must be taken; making only small changes, especially when dealing with entrenched community attitudes, will not be sufficient to achieve the objectives.

At the end of the day, contrary to many beliefs, it has been demonstrated that a specialised unit can tackle the problem of domestic violence. Additionally, with the establishment of Domestic Violence Liaison Officers positions in every police station in the Territory, if Officers in Charge are willing to dedicate some general patrol time to domestic violence duties, a specialised unit may no longer be necessary. However, for the moment, Northern Territory Police, and the DVU in particular, has had many successes in tackling an issue which has been ignored for too long.

Replication in other jurisdictions

There have been some claims, for example at the first national domestic violence conference held in Sydney in July 1995, that the success of a specialised unit such as the Northern Territory Police Domestic Violence Unit cannot be replicated in larger jurisdictions due to the perceived need for much greater amounts of additional resources. However, this is far from the case. It is true that larger populations would require more DVU members, or even a larger number of specialised units, but as indicated, the costs associated with removing operational officers from general duties patrols are believed to be largely offset by the savings resulting from specialised attention to domestic violence.

Perhaps the most important ingredient in a successful DVU initiative is having a group of individuals at both senior and operational levels which is committed to striving toward the reduction of violence within families.

Future Directions/Conclusions

Although solutions to some of the problems discussed above have been slow to materialise, with a strong, commitment to achieving stated goals and objectives, further advancements are possible.

Northern Territory Police, particularly through the establishment and maintenance of a specialised Domestic Violence Unit, has demonstrated this commitment, and in cooperation with other government agencies, victim support agencies and the community, will continue to strive towards the minimisation of domestic violence.

Resource person or organization to contact for further information

Officer in Charge
Domestic Violence Unit
Northern Territory Police Force Fire and Emergency Service
PO Box 39764
WINNELLIE NT 0821
Tel: (08) 8922 3312 Fax: (08) 8922 3316

Selected sources

1. Mugford, J. & Mugford, S. 1992, "Policing domestic violence' in Policing Australia: Old Issues New Perspectives, eds P. Moir & H. Eijkman, MacMillan, Melbourne.

2. National Committee on Violence Against Women 1992, National Strategy on Violence Against Women, Office of the Status of Women, Canberra.

3. National Committee on Violence 1990, Violence: Directions for Australia, Australian Institute of Criminology, Canberra.

4. DIVISIONAL DOMESTIC VIOLENCE LIAISON OFFICER BY THE ROYAL ULSTER CONSTABULARY IN NORTHERN IRELAND (IRELAND)

This following description is from "Bringing it out in the Open: Domestic Violence in Northern Ireland" a study commissioned by the Department of Health and Social Services (Northern Ireland) by Monica McWilliams and Joan McKieran, Centre for Research on Women University of Ulster.

Description.
The R.U.C. have introduced two pilot projects in Northern Ireland, alongside the appointment of Divisional Domestic Violence Liaison Officers following the introduction of the Force Order on Domestic Violence in Northern Ireland in 1991.

One of the projects has introduced follow-up calls to women who are still in relationships and have made contact with the police as a consequence of physical violence by their partners. A female police officer has been assigned the task of returning to women when the initial crisis has passed to see what further help can be facilitated. The project is on-going and is currently being evaluated.

The second project involves issuing cards to women who have requested assistance from the local police. This card lists the telephone numbers of the agencies dealing with domestic violence together with a contact number for the relevant housing executive office in the local area. This project is also being evaluated at present.

Selected Sources
1. McWilliams, M. and J. McKiernan (1992). Bringing it out in the open: Domestic Violence in Northern Ireland. Centre for Research on Women. University of Ulster: Belfast, Ireland.

5. INTERNATIONAL ASSOCIATION OF LAW ENFORCEMENT INTELLIGENCE ANALYSTS: IALEIA CODE OF ETHICS

This extract is taken from the web cite of the International Association of Law Enforcement Intelligence Analysts: http://www.inteltec.com/ia.eia/ethics.htm.

Synopsis

Description. IALEIA Code of Ethics adopted April 30, 1988.
The integrity of the INTERNATIONAL ASSOCIATION OF LAW ENFORCEMENT INTELLIGENCE ANALYSTS (IALEIA) is dependent upon the conduct of its individual members in all membership categories. A code of ethical behaviour is set forth herewith for the purpose of providing guidance in achieving a desirable individual and group standard. members of IALEIA will not:

1) As an officer, director, or agent of the Association, engage in substantive discussions concerning:
   a) ongoing or prospective case specific investigations,
   b) intelligence activities, or
   c) official agency information.

2) Unnecessarily delay, refuse, or fail to carry out a proper directive or assigned duty.

3) Act or make promises or commitments on behalf of IALEIA without appropriate authorization.

4) Solicit funds in the name of IALEIA of any IALEIA function or project without proper authorization.

5) Acquire, use, or dispose of IALEIA property without appropriate authorization.

6) Discriminate or harass others on the basis of sex, race, creed, or religion.

7) Accept or solicit gifts, favors, or bribes in connection with official agency or IALEIA duties.

8) Knowingly make false or misleading statements, or conceal material facts, in connection with IALEIA functions or proceedings; or

9) Release any information pertaining to an IALEIA member, including the identification if his or her employer, position, address, telephone number, or level of professional expertise, to any non-member except.

a) with the expressed permission of the member concerned, or:
b) in the course of official investigative proceedings.

In exercising IALEIA duties and responsibilities, members will:
1) Maintain the highest standards of professional propriety;

2) Refrain from any activity with would adversely effect the reputation of IALEIA or IALEIA members;

3) Carry out all Association activities in accordance with prescribed IALEIA procedures and practices;

4) Report violation of IALEIA rules, bylaws, and ethical standards to the Board of Directors;

5) Avoid engaging in criminal, dishonest, disreputable or disgraceful personal conduct;

6) Avoid personal and business associations with felons or persons known to be connected with or engaged in criminal activities:

7) Ensure that all personal financial activities, as they relate to IALEIA, do not reflect adversely on the Association;

8) Maintain a business like demeanour, be courteous, and demonstrate a respectful and helpful attitude whenever representing IALEIA.

Resource person or organization to contact for further information
Leo M. Jacques, CCA, Chair, Bylaws, Ethics & Resolutions

Selected sources
1. van de Werken, Tiffany. (Australian Institute of Criminology) *"Domestic Violence - Policing the "new crime" in the Northern Territory"* (www.aic.gov.au/cgi-bin/mfs.cgi/usr...1/web/policing/domestic.html&line=112#mfs)

6. ONTARIO CODE OF CONDUCT FOR POLICE - CODE OF CONDUCT (POLICE SERVICES ACT) (CANADA)

Section I

Note:
Section 56 of the Police Services Act sets out the definition of misconduct by listing a number of sections in the Act. In addition, s. 56(a) states that a police officer is guilty of misconduct if he or she "commits an offence described in a prescribed code of conduct". The Code of Conduct is found as a schedule to Regulation 927 of the Police Services Act. It is essentially the same as the Code of Offences in Regulation 791 of the former Police Act.

1. Any chief of police or other police officer commits an offence against discipline if he or she is guilty of,

(a) DISCREDITABLE CONDUCT, that is to say, if he or she,

(i) acts in a disorderly manner, or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force,

(i.1) fails to treat or protect a person equally without discrimination with respect to police services because of that person's race, ancestry, place of origin, colour, ethnic origin, citizen citizenship, creed, sex, sexual orientation, age, marital status, family status or handicap,

(i.2) uses profane, abusive or insulting language that relates to a person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, or handicap,

(ii) is guilty of oppressive or tyrannical conduct towards an inferior in rank,

(iii) uses profane, abusive or insulting language to any other member of a police force,

(iv) wilfully or negligently makes any false complaint or statement against any member of a police force,

(v) assaults any other member of a police force, (vi) withholds or suppresses a complaint or report against a member of a police force,

(vii) is guilty of an indictable offence or an offence punishable upon summary conviction under the Criminal Code (Canada), or

(viii) contravenes any provision of the Police Services Act or the regulations;

(b) INSUBORDINATION, that is to say, if he or she,

(i) is insubordinate by work, act or demeanour, or

(ii) without lawful excuse, disobeys, omits or neglects to carry out any lawful order;

(c) NEGLECT OF DUTY, that is to say, if he or she,

(i) without lawful excuse, neglects or omits promptly and diligently to perform a duty as a member of the police force,

(ii) idles or gossips while on duty,

(iii) fails to work in accordance with orders, or leaves an area, detachment, detail or other place of duty, without due permission or sufficient cause,

(iv) by carelessness or neglect permits a prisoner to escape,

(v) fails, when knowing where an offender is to be found, to report him or her or to make due exertions for bringing the offender to justice,

(vi) fails to report a matter that it is his or her duty to report,

(vii) fails to report anything that he or she knows concerning a criminal or other charge, or fails to disclose any evidence that he or she, or any person within his or her knowledge, can give for or against any prisoner or defendant,

(viii) omits to make any necessary entry in any official document or book, (ix) feigns or exaggerates sickness or injury to evade duty,
(x) is absent without leave from or late for parade, court or any other duty, without reasonable excuse, or

(xi) is improperly dressed, dirty or untidy in person, clothing or equipment while on duty;

(d) DECEIT, that is to say, if he or she,

(i) knowingly makes or signs a false statement in an official document or book,

(ii) knowingly makes or signs a false, misleading or inaccurate statement pertaining to official duties, or

(iii) without lawful excuse destroys or mutilates an official document or record or alters or erases an entry therein;

(e) BEACH OF CONFIDENCE, that is to say, if he or she,

(i) divulges any matter which it is his or her duty to keep secret,

(ii) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons,

(iii) without proper authority communicates to the public press or to any unauthorized person any matter connected with the police force,

(iv) without proper authority shows to any person not a member of the police force or any unauthorized member of the force any book, or written or printed paper, document or report that is the property of the police force,

(v) makes any anonymous communication to the chief of police or superior officer or authority,

(vi) canvasses, except as authorized by the Act or the regulations, any person in respect of a matter concerning the police force,

(vii) signs or circulates a petition or statement in respect to a matter concerning the police force, except through the proper official channel or correspondence or established grievance procedure, or

(viii) calls or attends any unauthorized meeting to discuss any matter concerning the police force;

(f) CORRUPT PRACTICE, that is to say, if he or she,

(i) takes a bribe,

(ii) fails to account for or to make a prompt, true return of money or property received in an official capacity,

(iii) directly or indirectly solicits or receives a gratuity, present, pass, subscription or testimonial without the consent of the chief of police,

(iv) places himself or herself under a pecuniary or other obligation to a licensee concerning the granting or refusing of whose licence a member of the police force may have to report or give evidence,

(v) improperly use his or her character and position as a member of the police force for private advantage,

(vi) in his or her capacity as a member of the police force writes, signs or gives, without the consent of the chief of police, a reference or recommendation to a member or former member of the police force, or any other police force, or

(vii) without the consent of the chief of police, supports in any way an application for a licence of any kind;

(g) UNLAWFUL OR UNNECESSARY EXERCISE OF AUTHORITY, that is to say, if he or she,

(i) without good and sufficient cause makes an unlawful or unnecessary arrest,

(ii) uses any unnecessary violence to a prisoner or other person contacted in the execution of duty or

(iii) is uncivil to a member of the public;

(h) DAMAGE TO CLOTHING OR EQUIPMENT, that is to say, if he or she,

(i) wilfully or carelessly causes waste, loss or damage to any article of clothing or equipment, or to any book, document or other property of the police three, or

(ii) fails to report waste, loss or damage however caused;

(i) CONSUMING INTOXICATING LIQUOR IN A MANNER PREJUDICIAL TO DUTY, that is to say, if he or she,

(i) while on duty is unfit for duty through drinking intoxicating liquor,

(ii) reports for duty and is unfit for duty through drinking intoxicating liquor,

(iii) except with the consent of a superior officer or in the discharge of duty, drinks or receives from any other person intoxicating liquor on duty, or

(iv) demands, persuades or attempts to persuade another person to give or purchase or obtain for a member of the police force any intoxicating liquor, while on duty;

(j) LENDING MONEY TO A SUPERIOR; or

(k) BORROWING MONEY FROM OR ACCEPTING-A PRESENT
FROM ANY INFERIOR IN RANK.

2. Any chief of police or other police officer also commits an offence against discipline and shall be liable to punishment as provided in the regulation, if he or she connives at, abets or is knowingly an accessory to any offence against discipline under this code.

Selected sources

1. Attorney General of Ontario: Board of Inquiry. *"Police Services Act: Code of Conduct (Police Services Act) (1996)"* (www.gov.on.ca/ATG/english/boi/boid001.htm)

7. FAMILY VIOLENCE FOLLOW-UP TEAM IN EDMONTON (CANADA)

This example is found in the Federation of Canadian Municipalities report on Building Safer Communities for Women: Municipal and Community Strategies to Reduce Violence Against Women.

Synopsis

Description. The Family Violence Follow-Up Team Demonstration Project is a good example of an integrated and collaborative response to family violence. It began with the City of Edmonton's Mayor's Task Force on Safer Cities, Family Violence Committee Report (May 1991) which proposed that the Community and Family Services Department and the Edmonton Police Service explore the feasibility of a joint response team to follow up on family violence cases. A social worker and detective researched the idea and recommended that a Demonstration Project be initiated to assess the merits of such an approach. The City of Edmonton adopted the recommendation and initiated the Family Violence Follow-Up Team Demonstration Project in January 1992. It ran until July 1992.

The project was divided into three parts: i) the six-month response of the Family Violence Follow-Up Team; ii) an evaluation of the team from a qualitative perspective; and iii) an evaluation of the team from a quantitative perspective. The evaluation was set up to deter-mine the difference the team made to attitudes and behaviours of survivors/victims and perpetrators compared to that of other survivors/victims and perpetrators who had no contact with the team. Therefore, two groups, a Comparison and Follow-Up Team group were created. In both groups, all of the survivors/victims who were interviewed were women while the perpetrators were men.

The primary goal of the team was to assist individuals and couples who were experiencing violence in their intimate relationships with the aim of preventing further violence. To accomplish this goal, the team provided assessment and

interventions which included sharing information, arranging referrals, advocating with legal and social agencies and giving emotional and practical support through counselling. The team also coordinated its work with other agencies in the community serving survivors/victims of violence.

The team was based on the principle that collaboration between agencies makes for a better intervention in responding to family violence. The team also operated from the point of view that violence was unacceptable under any circumstance and that changing attitudes and behaviours of both abused women and perpetrators of violence is more likely during a time of crisis. Therefore, whenever possible, the team acted swiftly to establish contact soon after a crisis "...to capitalize on the time period when a client is most likely to be vulnerable to change."

The project was a joint venture between the Community and Family Services Department and Edmonton Police Service. It was situated in North-East Edmonton because 40% of police-reported family violence cases occur in this part of the city. The case selection process involved perusing police reports and prioritizing cases according to case selection criteria such as history of violence and high level of victim trauma. The most important criteria, however, was the willingness of the survivor/victim or perpetrator to accept the team's help.

The team itself was comprised of a social worker and a police detective. Both team members had expertise in the area of family violence, particularly with woman abuse.

The team did not operate as an initial emergency response team, but rather as a follow-up team after the initial police investigation was completed and the situation was under control.

Following the selection of a prospective case, the team initiated contact with survivors/victims, which in almost all cases were women. Usually both members of the team met with the woman and all three parties agreed on a course of action. The team applied a gender-specific counselling approach by letting the woman involved devise her own strategies to respond to the violence in her relationship and did not attempt to direct her actions. Acknowledging that women are the experts in their own situations reinforces their independence and equality.

Roles and Responsibilities

The roles and responsibilities of the social worker and police officer were defined according to each professional's expertise. While there was a well-defined division of labour between them, there were times when one would take on the responsibilities of the other. The report from the *Demonstration Project, Family Violence: Follow-up Team Demonstration Project--Research Report and Findings,* states:

> As each Team member learned about the other member's area of knowledge and as understanding of each other's roles and expectations increased, the Team began to operate in a more flexible, spontaneous way, often superseding professional boundaries and roles.

One of the critical roles of the social worker was to act as an advocate on behalf of survivors/victims and perpetrators with legal and social agencies. Women expressed theft difficulty in finding helpful responses to their situations which increased the risk of them staying in abusive situations. The report states:

> Repeatedly it was found that people were often "stuck" in violent situations due to the lack of response or inconsistent responses by the social, legal and criminal justice systems.

While the social worker was able to overcome barriers such as long waiting lists for service and unresponsive legal and court services, it was not without much frustration and discouragement. This experience demonstrates how organizations and institutions perpetuate gender inequality and violence against women. A system which is unresponsive to women sends a clear message to society that women do not have the equal right to be protected under the law nor do they have the equal right to expect services which respond to their needs.

By encouraging the institution of an integrated and collaborative approach to family violence in Edmonton, through the Family Violence Follow-Up Team initiative, the City is not only fostering two-way discussions and problem-solving on the gaps in service, it is effectively promoting women's equality and reducing their vulnerability to violence by facilitating their right to access what they need to fully participate in all aspects of life.

One of the most crucial tasks performed by the police detective was that of requesting and enforcing conditions of release documents such as undertakings and recognizances. Many perpetrators of violence against women have a history of not following their release conditions. Often, women were told by their abusers that there was nothing the

police could do to stop the abuser from doing what he wished. As a result, women would frequently cease involving police and refuse to cooperate in criminal proceedings.

When met with swift and consistent consequences for breaches, perpetrators began to com-ply with court orders. Once they were confident that the system would protect them, abused women cooperated with the police and appeared in court as witnesses.

Enforcement of laws which serve to protect women is another way the Follow-Up Team initiative promotes women's equality. While the law is supposed to protect both men and women equally, there is an absence of laws which protect women, and where there are laws that do, they are often not enforced. When a jurisdiction decides to enforce a law which protects women, it is advancing their equality.

Collaboration

While the theory of collaboration, derived from the Follow-Up team's experience in Edmonton, is discussed in detail elsewhere in this report, it is important to summarize its essential components here so that an examination of the merits of this approach from a gender-specific point of view can take place.

Collaboration is based on an acceptance of differences. It names a certain relationship between differences rather than seeking to assimilate them. The team's work was successful because an understanding of what needed to be done was not based on each team member having the same interpretation of the case, but on the confidence that one's interpretation was part of what was needed and a belief in the value of what the other had to say. While the team struggled, at times, with differences in professional orientations, they were able to value and respect each other in ways which led to creative and effective problem-solving.

There is an equality principle inherent in this approach because each perspective offered retains its integrity and value in the face of the other(s). Applying the collaborative model along gender lines would lead to the formation of a partnership based on equality between men and women. An important component of the team's functioning was its ability to model an approach that reflected equality between the team members (male police detective, female social worker) and avoided behaviours that may have reflected more traditional male-female roles. Addressing the issue of equality between team members strengthened the impact the team had on *survivors/victims* and the community.

The team was a role model for individuals and couples it assisted. Having a relationship based on equality allowed the team to work together well, which in turn, had a very positive impact on most survivors/victims. During the evaluations, these women spoke about the team's involvement being the key factor initiating change in their lives. More of those in the Follow-Up Group than those in the Comparison Group (75% versus 58%) changed their views of abuse from something they could minimize and try to live with, toward seeing it as an unacceptable activity on the part of their partner.

The collaborative approach, intrinsically based on the principle of equality, merits applause from a gender-sensitive perspective because it ensures women's safety by cultivating her strength and independence which, in turn, puts her in a position more equal to men's. Seventy-one percent of these women indicated that they made positive changes in their lives since the initial police intervention. These changes were more pronounced among those who worked with the team than in the Comparison Group.

Another essential ingredient in the collaborative model used by the team was the shared value base and understanding about the underlying issues and dynamics of family violence. If each team member had had a different understanding about why violence occurred, i.e. if one member believed it was due to a psychological disorder while the other saw it as being based on gender inequality, then it would result in each member developing different response strategies. Having a shared philosophy did not avoid all conflict between team members, however, it did focus their attention on problem-solving rather than on determining whose position was correct.

The team adopted a philosophy of empowerment which meant that intervention was woman-directed. From the perspective of the staff from the local shelter, WIN House, this approach did empower abused women because it gave them the strength to use the system which then could be strong on their behalf. Secondly, it built theft confidence by putting them in charge of their own lives and it also had the capacity to respond to a deeper level of diversity among women.

The team did not do things for abused women, but rather enabled their capacity for choice by giving them room to understand their experiences. The team treated women survivors/victims as capable of understanding their situation and being capable of a response. Essentially, treating them as human beings equal to themselves. Through carefully chosen language, the team empowered women to make their own choices:

> Jack (the police officer) can go tomorrow to get a warrant for George's arrest, but what Jack needs to know is what you will do. If George goes to jail you are okay, but if he is not kept in jail you could be in danger. So we would have to have you leave and go to a shelter. If Jack gets the arrest you may need to make arrangements to move fast. So Jack wants to know when he should act on this so it fits with your plans. Any ideas?

The team were especially conscious of traditional approaches to woman abuse which laid blame for the violence on women. The team adopted an untraditional approach based on respect and concern for abused women. Unlike a sexist approach which keeps the definition of violence in the arena where the assault is interpreted on the basis of "who the players are", the team viewed the assault from the perspective of "what the players did". The following excerpt from a conversation with a man who abused his partner illustrates this approach:

> Man: When I get mad, I say things I don't mean. When she (his partner) has a problem she doesn't talk to me, she goes to her mother. How are you supposed to get her to smarten up?
>
> Social Worker: I get the sense that you are looking at yourself as good guy - bad guy. I hear that you love her and have done good things for her. I don't think you are a bad guy but your behaviour isn't going to help you in terms of the law. What you don't realize is that your behaviour is considered assault, whether your partner is awful or not. You can be charged for that. More important is that assault destroys trust. You don't realize what it does to a woman when you push her to the wall.
>
> Perpetrator: But she continued to harass and ask for it. She said "hit me, hit me, go on hit me." So I did.
>
> Social Worker: I hear that. But even when she taunts you, in the end it's *you* who punched her.

The team member is sending a clear message to the perpetrator that the abused woman did not deserve to be beaten no matter what she did to provoke the attack. Underlying this message is the understanding that women are human beings who have the right to be treated with dignity and respect, not with violence. Spending time with a man who abuses women in a counselling session, like this one, is about more than promoting women's safety. If that were the goal, why spend time with the abuser? It is an approach geared toward challenging the very attitudes which cause the violence in the first place. By confronting those attitudes from the point of view of women being human beings deserving of respect, the team is, once again, promoting women's safety through applying the principle of equality with the perpetrator himself.

WIN House personnel noted that had it not been for the team's untraditional approach based on challenging sexist attitudes to violence against women, the team would not have been as effective in developing the trust of women and social agencies.

The team's philosophy of empowering women also led them to take into account the diversity of women they worked with. The team understood family violence as cutting across all socio-economic classes, racial, ethnic and other differences. The team approached this diversity with the understanding that abused women needed to be listened to. The team adopted an inquiring attitude which was essential to the understanding of the diversity of women.

From a gender-specific point of view, addressing the concerns of women of colour, Aboriginal women, immigrant and visible minority women, disabled and senior women and lesbians is essential to any model of intervention seeking to protect women and promote their equality. The collaborative model of the Follow-Up Team, based on the acceptance and understanding of differences, responsibly addressed the needs of a diverse group of women.

Social Agencies

A social agency survey was done to generate input from groups and agencies directly involved with abused women. Input from social agencies provided a different perspective on the team's impact. Generally, responses from representatives of social agencies inter-viewed indicated that the team was successful in meeting abused women's needs. The primary reason they saw for this trend was that the team improved the coordination of services. One representative stated:

(abused women) were very, very pleased. Somebody was listening to them and someone would coordinate instead of them lashing out blindly trying to access services.

Selected sources

1. Report on Building Safer Communities for Women: Municipal and Community Strategies to Reduce Violence Against Women. Federation of Canadian Municipalities

8. COMPLAINTS DIRECTORATE WITHIN THE SOUTH AFRICAN POLICE FORCE (SOUTH AFRICA) (TO BE ADDED)

III. Police

(F) WOMEN IN THE POLICE FORCE

Section 8(f) of the Model Strategies urges Member States to encourage women to join forces, including at the operational level

Examples of Promising Practices Relating to Women in the Police Force:

1. LAPD GENDER BALANCE AND REFORM PASSED BY THE LOS ANGELES CITY COUNCIL (UNITED STATES OF AMERICA) .....

2. WOMEN ONLY POLICE UNITS "THE DELEGACIAS" (BRAZIL) – *TO BE ADDED*

3. ALL WOMEN POLICE STATIONS (INDIA) – *TO BE ADDED*

1. LAPD GENDER BALANCE AND REFORM PASSED BY THE LOS ANGELES CITY COUNCIL (UNITED STATES OF AMERICA)

Synopsis

Description. THE FOLLOWING RECCOMMENDATION AND MOTIONS WERE UNANIMOUSLY APPROVED BY THE LOS ANGELES CITY COUNCIL ON SEPTEMBER 2, 1992

The National Center for Women and Policing

To take full advantage of the emerging opportunities to increase the numbers of women police, the Feminist Majority Foundation has just launched the National Center for Women and Policing. The Center is the first nation-wide resource for women police, community leaders, public officials and law enforcement agencies seeking to increase the numbers of women police in their communities. The Center will provide training, research, and educational and action programs.

The Board of Directors of the International Association of Women Police unanimously endorsed the Center at its annual conference in Pittsburgh, Pennsylvania in September. Former Portland, Oregon Chief of Police Penny Harrington -- the first major city woman chief of police -- will lead the Center as the Chair of the Advisory Board and its Director,

The National Center for Women and Policing aims to replicate the successes of the Los Angeles campaign to secure gender-balance in hiring and promotions at police agencies across the country. For more information on the new

National Center for Women and Policing and how to access its programs and services, please see the brochure included in this issue of Women Police.

Resource person or organization to contact for further information
Katherine Spillar is National Coordinator of the Feminist Majority Foundation, and co-chaired the Women's Advisory Council to the Los Angeles Police Commission.

2. WOMEN ONLY POLICE UNITS “THE DELEGACIAS” (BRAZIL) (TO BE ADDED)

3. ALL WOMEN POLICE STATIONS (INDIA) (TO BE ADDED)

IV. SENTENCING AND CORRECTIONS

(A) MEETING THE GOALS OF SENTENCING

Section 9(a) of the Model Strategies urges Member States to ensure that sentencing of offenders meets the goals of:

(i) Holding the offenders accountable for their acts related to violence against women;
(ii) Stopping violent behaviour;
(iii) Taking into account the impact on victims and their family members of sentences imposed on perpetrators who are members of their families;
(iv) Promoting sanctions that are comparable to those for other violent crimes.

Examples of Promising Practices Relating to Meeting the Goals of Sentencing:

1. JUDICIAL AND PROBATION GUIDELINES FOR DISPOSITION OF MISDEMEANOUR DOMESTIC-RELATED OFFENCES, ST. LOUIS COUNTY COURT, DULUTH (UNITED STATES OF AMERICA) .....

2. RAPE-SENTENCING GUIDELINES AS LAID OUT IN CASE LAW : R V. BILLAM AND OTHERS (UNITED KINGDOM) .....

3. RECOMMENDATIONS FOR JUDGES IN SENTENCING IN DOMESTIC VIOLENCE CASES INVOLVING DRUG AND ALCOHOL ABUSE - THE DADE COUNTY'S DOMESTIC VIOLENCE COURT EXPERIMENT (UNITED STATES OF AMERICA) .....

4. VIOLENCE IN THE FAMILY (PREVENTION AND PROTECTION OF VICTIMS (CYPRUS) -*TO BE ADDED*

1. JUDICIAL AND PROBATION GUIDELINES FOR DISPOSITION OF MISDEMEANOUR DOMESTIC-RELATED OFFENCES, ST. LOUIS COUNTY COURT, DULUTH (UNITED STATES OF AMERICA)

This examples deals with Judicial and Probation Guidelines that are used by St. Louis County Court and are contained as Appendix H in Confronting Domestic Violence: A Guide for Criminal Justice Agencies. (cited below) The Guidelines are to be followed by probation officers in the disposition of misdemeanour, criminal cases involving domestic-related offenses (i.e. violations of orders for protection, criminal damage to property, assault, and trespassing). Domestic related shall be defined as cases involving perpetrators who have or are currently living with their alleged victims.

Description. The county court in St. Louis is currently requesting pre-sentence investigations in domestic assault and related cases in order to enhance the court's ability to appropriately sentence the offender, to deter continued acts of violence against the victim and assure the court that the offender understands the implications of the various sentencing alternatives. In conducting pre-sentence investigations, making sentencing recommendations and monitoring probation agreements relating to domestic abuse cases, probation officers shall generally follow procedures listed below. Deviations from procedures based on these guidelines shall be documented in the client's file, noted in the written or verbal report to the court, and submitted to the probation officer's supervisor for review.

Conducting the Pre-Sentence Investigation or Investigation for Pre-Trial Release

1. The probation officers shall make a reasonable effort to contact the victim/victim advocate/victim agent in order to:

A. Inform the victim of the sentencing options and/or release conditions available to the court, and obtain statement from the victim regarding the case.

B. Discuss the need for conditions of probation or release which will provide for the on-going safety of the victim, i.e. limited contact by the assailant with the victim' supervised visitation of children, temporary removal of weapons from the household.

C. Enter into and completion of a child abuse program.

D. Restricted or no contact with the victim.

Upon conviction for a second offense or similar offense in a domestic related case, the presumptive recommendations, absent aggravating circumstances, shall be 60-90 days in the county jail with the offender serving a minimum of 20 days and probation for a one-year period following incarceration with similar conditions imposed as following the first assault. There shall be no presumptive recommendation for sentencing following a third conviction except that said recommendations shall not be less than 90 days of incarceration and a minimum 60 days served.

Probation/Pre-Trial Release Agreement

1. Immediately following the sentencing of an offender, the probation officer shall prepare a written probation agreement for the signature of the offender.

2. Copies of the agreement shall be immediately mailed/forwarded to any person or agency specifically mentioned in the agreement.

3. The agreement shall be specific in regard to expectations of the offender placing the responsibility of arranging for counselling, payment of fees and reporting to the probation officer with the offender.

4. The probation officer shall fully explain each court condition and the penalties for non-compliance prior to obtaining the offender's signature.

5. Pre-trial release agreements shall be specific, fully explained to the suspect and signed by the suspect. Copies will be forwarded to all interested parties.

Monitoring Conditions of Probation and Pre-Trial Release

l. The probation officer shall set up a regular reporting protocols with counselling agencies to monitor cases involving court orders, stated counselling (e.g. chemical dependency, Parent's Anonymous, as a part of the probation or pre-trial release agreement. A cases involving mandated counselling for violence shall be referred through the Domestic Abuse Intervention Project which shall monitor the assailant's attendance at counselling and report to the probation officer on a regular basis.

2. The probation officer shall contact victims by phone or letter at least every 90 days to encourage reporting of non-compliance with provisions of agreement related to non-harassment, restricted contact, threats toward victim or reoffenses. (See Attached section 11 for copies of sample letters).

3. Failure to comply with a restraining order prohibiting the use of physical violence or threats of violence, failure to comply with court ordered counselling, failure to comply with order prohibiting the use of harassment or contact with the victim shall result in the probation officer initiating revocation hearing or a review hearing on the offender's probationary or supervised release status according to the rules of court. Deviations from this practice shall be documented writing and reviewed by the probation officer's supervisor

4. Victim involvement in procedures used in the pre-sentence investigation shall also apply in preparing a report for hearings related to revocation or review of probationary or supervised release status. Inform the victim of the resources available through the Coalition including legal advocacy, emergency shelter, and educational groups.

5. Obtain information from the victim regarding any aggravating circumstances including the frequency of abuse, history of past abuse, the absence of physical violence in cases other than assault cases, other acts of abusive or threatening behaviours committed by the assailant towards the victim.

6. The probation officer shall make a reasonable attempt to contact human service providers and court personnel believed to have information regarding the presence of aggravating circumstances.

7. The presence of aggravating circumstances shall be fully documented and reported to the court verbally or in writing at the time of sentencing or pre-trial release. Aggravating circumstances include but are not limited to:
A. Serious bodily injury or threat thereof to any adult or minor in the household.
B. Forced sexual contact or threat thereof to any adult or minor in the household or any prohibited intrafamilial sexual conduct.
C. Use or threat with a dangerous weapon.
D. Verifiable history of physical abuse by the offender to the victim.
E. On-going harassment of the victim by phone, mail, or in person by the assailant.

Sentencing Recommendations following convictions for Misdemeanour Offences Related to Domestic Assault

l. The probation officer shall follow the general guidelines listed below in making recommendations to the court regard, sentencing for misdemeanour offenses in domestic related assaults or criminal convictions.

A. The presumptive sentence recommendation for the first conviction absent aggravating circumstances shall be 30 days in the county jail, sentence stayed for a period one year upon conditions which provide for the protection of the victim and attempts to rehabilitate the offend i.e.

- Restrain from harassment, molestation, threats or of violence against the victim.
- Enter into, cooperate with, and successfully complete the DAIP counselling and educational program.
- No further violations of any criminal statutes ordinances.
- Payment of any fees in a timely manner.
- Other provisions deemed just and appropriate for protection of the victim and society and to further promote the efficient administration of justice.
- No use of alcohol or other mood altering drug and assessment for chemical dependency or alcohol abuse.
- Enter into and completion of chemical dependency program.

2. The existence of pending charges on the offender for an offense which involves a revocation of probation shall not prohibit the probation officer from pursuing a revocation of probation hearing in these matters. The probation officer shall consult with the City Attorney in these cases to coordinate the separate cases.

Selected sources

1. Goolkasian, G.A. Confronting Domestic Violence: A Guide for Criminal Justice Agencies (Washington: National Institute of Justice: 1986)

2. RAPE-SENTENCING GUIDELINES AS LAID OUT IN CASE LAW: R V. BILLAM AND OTHERS (UNITED KINGDOM)

The British Court of Appeal in R v. Billam and others set out rape sentencing guidelines which can be found in the 50 Journal of Criminal Law (1986) at p 341-342. The following extract is taken from that source.

Synopsis

Text. R v. Billiam and Others
In the present case, [1986] 1 W.L.R. 349, the following new guidelines on appropriate sentences for rape and attempted rape were laid down by the Court of Appeal:
1. The defendant who has carried out a campaign of rape, committing the crime upon a number of different women or girls comes at the top of the scale. He represents a more than ordinary danger and a sentence of 15 years or more may be appropriate. Where the defendant's behaviour has manifested perverted or psychopathic tendencies or gross personality disorder, and where he is likely, if at large, to remain a danger to women for an indefinite time, a life sentence will not be inappropriate.
2. For rape committed by an adult without any aggravating or mitigating features, 5 years should be taken as the starting point in a contested case.

3. Where a rape is committed by two or more men acting together, or by a man who has broken into or otherwise gained access to a place where the victim is living, or by a person who is in a position of responsibility towards the victim, or by a person who abducts the victim and holds her captive, the starting point should be 8 years.
4. Offenders under the age of 21 fall within the scope of section 1 of the Criminal Justice Act 1982 and, as most offences of rape are "so serious that a non-custodial sentence cannot be justified" for the purposes of the section, in the ordinary case the appropriate sentence would be one of youth custody following the term suggested as terms of imprisonment for adults, but making some reduction to reflect the youth of the offender; in the case of juveniles the court will in most cases exercise the power to order detention under section 53(2) of the Children and Young Persons Act 1933. In view of the procedural limitations to which the power is subject, it is important that a magistrates' court dealing with a juvenile charged with rape should never accept jurisdiction to deal with the case itself, but should invariably commit the case to the Crown Court for trial to ensure that the power is available.
5. The starting point for attempted rape should normally be less than for the completed offence, especially if it is desisted at a comparatively early stage. But, attempted rape maybe made by aggravating features into an offence even more serious than some examples of the full offence.
6. The Court identified a number of factors any one or more of which, if present, should lead to the final sentence being substantially higher than the figure suggested as the starting point or, alternatively, should result in some reduction from what would otherwise be the appropriate sentence:

(a) Aggravating factors - the crime should be treated as aggravated where (i) violence is used over and above the force necessary to commit the rape, or (ii) a weapon is used to frighten or wound the victim; or (iii) the rape is repeated, or (iv) the rape has been carefully planned or (v) the defendant has previous convictions for rape or other serious offences of a violent or sexual kind; or (vi) the victim is subjected to further sexual indignities or perversions; or (vii) the victim is either very old or very young; or (viii) the effect upon the victim, whether physical or mental, is of special seriousness.

(b) Mitigating factors - (i) a plea of guilty - the Court was clearly aware of the extra distress which giving evidence can cause to a victim of rape; or, (ii) the victim having behaved in a manner which was calculated to lead the defendant to believe that she would consent to sexual-intercourse; or (iii) previous good character (only of minor relevance). The Court declared, however, that the fact that the victim may be considered to have exposed herself to danger by acting imprudently (as for instance by accepting a lift in a car from a stranger) is not a mitigating factor; and the victim's previous sexual experience is equally irrelevant.

3. RECOMMENDATIONS FOR JUDGES IN SENTENCING IN DOMESTIC VIOLENCE CASES INVOLVING DRUG AND ALCOHOL ABUSE - THE DADE COUNTY'S DOMESTIC VIOLENCE COURT EXPERIMENT (UNITED STATES OF AMERICA)

The following extract taken from The National Institute of Justice and the American Bar Association Research Report Legal Interventions in Family Violence: Research Findings and Policy Implications provides selected findings and implications drawn from the Dade County's Domestic Violence Court Experiment and includes implications for judges in terms of sentencing in domestic violence cases involving drug and alcohol abuse.

Synopsis

Description. The following implications were drawn:

- Since the fact and length of treatment favourably impact rearrest rates, judges should attempt to identify treatment programs that have demonstrated the ability to admit and keep in treatment domestic violence offenders with substance abuse problems, and should maintain contact with offenders to ensure they are attending treatment. (It is difficult to discern whether the treatment's effect on rearrest is because of the treatment itself or because the offender had more contacts with the court.)
- When the option is available, judges should consider ordering domestic violence offenders with substance abuse problems to integrated batterer/substance abuse treatment programs rather than to separate programs for batterer treatment and substance abuse treatment.

Implementation details. The purpose of the research was to obtain baseline data on domestic violence offenders and offenses, including data about the role of substance abuse in domestic violence and the dropout and rearrest rates of those ordered to treatment; and to compare the impact on treatment status and reinvolvement in the criminal

and civil justice systems of two treatment approaches for domestic violence batterers: (1) the regular "dual" approach in which batterer treatment and alcohol/drug treatment are separate, with substance abuse treatment an "add-on" to batterer treatment and (2) a new "integrated" approach merging substance abuse and batterer treatment.

The two-phase project took place in the specialised treatment-oriented Dade County (Florida) Domestic Violence Court. The base-line study included a review of misdemeanour cases processed in the court for a l-year period prior to the availability of integrated batterer substance abuse treatment. In the experiment, misdemeanour divertees and probationers ordered to treatment for both substance abuse and battering between early June 1994 and late February 1995 were randomly assigned to either the regular dual treatment process (n=140) or the new integrated treatment program (n=210). The progress of individuals in both groups was observed for 7 months to determine treatment status and to chart reinvolvement in the criminal and civil justice systems.

Among the findings in the baseline study of immediate relevance to the follow-up treatment experiment were the following:

- Roughly half of misdemeanour defendants in entering cases were involved in the abuse of alcohol and/or other drugs. However, fewer than half of the defendants so involved were processed into substance abuse treatment. Many of the cases with drug or alcohol involvement were dismissed or "no-actioned."
- Slightly more than half of the defendants were diverted or placed on probation. Nearly all divertees and probationers were assigned to domestic violence treatment; about two-fifths were also assigned to substance abuse evaluation and/or treatment.
- Large numbers of divertees and probationers assigned to treatment failed to appear at treatment programs.
- Higher rearrest rates were found among divertees and probationers who were not admitted to treatment. Rates of rearrest were lower for those who were admitted and "continued in process."
- Higher treatment dropout rates were found among those substance abuse-involved divertees and probationers who were assigned to batterer treatment and substance abuse treatment in separate programs than among those assigned to batterer programs only.

The treatment experiment yielded three statistically significant findings:

- The integrated treatment approach was far more successful than the dual process in getting divertees and probationers to begin treatment (43 percent of the dual program participants never showed up for treatment after intake compared to 13 percent of the integrated program participants).
- The integrated approach was more successful than the dual process at keeping participants in treatment (median of 160 days compared to 99).
- During the 7-month follow-up, participants in the integrated treatment program were re-arrested for same-victim domestic violence offenses at less than half the rate of those assigned to dual programs (6 percent vs. 14 percent).

Selected sources

1. Goldkamp, John S. with Doris Welland, Mark Collins and Michael White “The Role of Drug and Alcohol Abuse in Domestic Violence and Its Treatment: Dade County's Domestic Violence Court Experiment” From the Executive Summary of a Crime and Justice Research Institute study funded by the National Institute of Justice, grant #93-IJ-CX-O028. June 1994, NCJ 163411.

2. The National Institute of Justice and the American Bar Association Research Report Legal Interventions in Family Violence: Research Findings and Policy Implications

4. VIOLENCE IN THE FAMILY (PREVENTION AND PROTECTION OF VICTIMS (CYPRUS) (TO BE ADDED)

IV. Sentencing and Corrections

(B) NOTIFICATION OF RELEASE

Section 9(b) of the Model Strategies urges Member States to ensure that a woman subjected to

violence is notified of any release of the offender from custody, where the safety interests of the victim outweigh the offender's privacy interests.

Examples of Promising Practices Relating to Notification of Release:

1. SEX OFFENDER REGISTRATION AND NOTIFICATION LAWS (UNITED STATES OF AMERICA) .....

2. PARTNERSHIP BETWEEN GOVERNMENT AND PRIVATE ORGANISATION TO PROVIDE NOTIFICATION SERVICES TO VICTIMS - DAISI PROGRAMME (UNITED STATES OF AMERICA)

1. SEX OFFENDER REGISTRATION AND NOTIFICATION LAWS (UNITED STATES OF AMERICA)

The initiatives on sex offender community notification programmes in the United States is described by Dena Sacco in an article found in the Feb/Mar 1998 issue of the U.S Department of Justice: Violence Against Women Office newsletter. The evaluation of these initiatives is taken from a paper by Peter Flinn "Sex Offender Community Notification" found in the series: NIJ Research in Action published in Feb 1997.

Synopsis

Description. Over the past few years, the federal and state governments in the United States have made efforts to develop strong, effective systems to track the whereabouts of convicted rapists and child molesters. Reports indicate that every state now has a sex offender registration system, and a majority of states have established systems for notifying communities about sex offenders. In addition, the FBI has established an interim national sex offender registry to enable law enforcement to access information from participating state registries. Although it has been in existence for less than a year, the national registry has over 33,000 records on sex offenders from 23 states, with new states joining the system each month.

There are now four federal laws that set out requirements for state sex offender registration and notification programs. The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (Wetterling Act), which is part of the 1994 Crime Act, provides a financial incentive for states to establish registration systems for convicted child molesters and other sexually violent offenders. Megan' s Law, which the President signed on May 17, 1996, requires states to release relevant information that is necessary to protect the public concerning registered sex offenders. Before the enactment of Megan's Law, the Wetterling Act permitted, but did not require, such disclosure. The Pare Lychner Act, which strengthens the Wetterling Act's requirements in many respects and mandates the national sex offender registry, was enacted in October 1996. Finally, provisions of the Commerce Justice State Appropriations bill, enacted in November 1997, amended the Wetterling and Lyeliner Acts to afford states greater flexibility in establishing effective registration systems. It also contains provisions requiring registration for offenders convicted in federal and military tribunals, as well as offenders who live in one state but work or go to school in another.

Each of these laws contains important elements of a comprehensive registration and notification system. To assist the states in interpreting and implementing them, the Department of Justice is working to publish guidelines on the laws. Because states that fail to meet the requirements of each law by certain deadlines risk forfeiting 10 percent of their Byrne formula grant funds, the forthcoming guidelines will clarify by what date each specific requirement must be met.

Sex offender registration and notification systems are important law enforcement and public safety tools. By informing local authorities of the identities and whereabouts of convicted sex offenders, registration systems aid in the investigation of sex crimes. Likewise, community notification programs enable communities and parents to take common sense measures to protect themselves and their children.

At the same time, it is important to recognize that other tools also may be effective in conjunction with registration and notification systems. Thus, the department has taken steps to promote the development of comprehensive

programs for sex offender management, with the goal of reducing recidivism rates and increasing community safety. In 1996, the Department of Justice, through the Office of Justice Programs, created the Center for Sex Offender Management. The Center is a national project that supports local jurisdictions in the effective management of sex offenders. It works with jurisdictions around the country that have developed innovative team approaches to sex offender management, with the idea that bringing together law enforcement, treatment providers, courts, and others to manage sex offenders is the most effective way to reduce recidivism and increase community safety. The Center also provides intensive training opportunities and technical assistance for local jurisdictions and produces publications addressing critical topics in the area of sex offender management.

Evaluation. A 15-year follow-up study of California's registration statute found that police investigators reported that the State's registration system was effective in helping them to apprehend suspected offenders.

The paper cites advantages and drawbacks of legislation. Respondents identified advantages and disadvantages to the principal provisions of existing notification legislation:

- Allowing local jurisdictions to establish and apply their own criteria for deciding which offenders will be subject to notification and what type of notification will be conducted can provide probation officers, law enforcement officers, and prosecutors with a sense of ownership in the program. This discretion also makes them accountable for what may happen later on, such as community fear or harassment. Discretion enables agencies to individualize the notification process - for example, to refrain from doing notification with offenders for whom the procedure might put them over the edge and incite reoffending, or not subjecting an offender to notification because leaving him homeless as a result of being evicted could increase his risk of reoffending. Permitting discretion, however, can result in inequitable or inconsistent notification procedures because of the use of different criteria and their application in a subjective manner by different local agencies. Discretion also creates extra work for staff who must implement notification.
- Mandating the type of notification required for specified types of offenders presents the reverse scenario: it eliminates arbitrariness and subjectivity but may result in a reduced sense of responsibility for program implementation among notifying agencies. According to the Washington State Institute for Public Policy study director, explicit and strict statutorily established eligibility criteria may also increase the State's exposure to lawsuits because they allow each offender to argue that pertinent considerations were not included in the decision to subject the person to notification. As a result, criteria and procedures that were included in the original. legislation in Washington State were eliminated in the final version.
- The agency that identifies offenders who will be subject to notification and does the notification should be made accountable for what follows - that is, it should have to handle the repercussions, such as objections from offenders and any resulting community fear, anger, or complacency. Agency staff who must handle the response are likely to be careful to subject to notification only those offenders for whom the evidence suggests a high risk of reoffending and to provide the community education needed to prevent negative community reactions to notification.
- Requiring offenders to do their own notification is open to a number of criticisms. It can frighten the community because the information comes directly from the offender. Some offenders try to make their names or other information on the notification cards illegible or incomplete, creating work for whoever supervises the notification process. According to a co-author of a multistate study of sex offender notification funded by the National Institute of Justice and published by the American Probation and Parole Association, "Notification by offenders doesn't allow for educating neighbours about the reasons offenders are released and the need for these parolees to live somewhere." However, two probation officers in Louisiana warned that if they had to do the notification, it would impose an even greater burden on their already heavy caseloads. Furthermore, they believe that making offenders handle their own notification teaches responsibility.
- By limiting the number of people with access to information about the offender and by keeping a list of the individuals who have asked for the information, making the public responsible for requesting information about sex offenders enables law enforcement agencies to more easily identify which community member may be harassing an offender than when an entire neighbourhood has the information. The disadvantage of this approach is that many people may not take the initiative to request the information, and many community members may not even know the information is available. Residents in California may be further discouraged front using their State's hotline by the $10 fee for each inquiry and the requirement to provide the name of the suspected person and other identifying information, such as a Social Security number or date of birth. While the system received 3,270 queries in its first two years of operation, an unknown number of the requests may have come from the same individuals or organizations.

Resource person or organization to contact for further information

A copy of the research done on this topic can be found:
U.S. Department of Justice
Office of Justice Programs
National Institute of Justice
Washington, DC 20531

Selected sources

1. Sacco, Dena “Sex Offender Registration and Notification Laws” (Feb/Mar 1998 US DOJ Violence Against Women Office)

2. Finn, Peter “Sex Offender Community Notification” from NIJ Research in Action February 1997 (U.S. Department of Justice: Office of Justice Programs: National Institute of Justice: 1997)

2. PARTNERSHIP BETWEEN GOVERNMENT AND PRIVATE ORGANISATION TO PROVIDE NOTIFICATION SERVICES TO VICTIMS - DAISI PROGRAMME (UNITED STATES OF AMERICA)

DAISI Systems & Service engineers interactive/integrated communication technologies. DAISI's first system was installed in September, 1988. Since then, DAISI Systems have been installed across the USA. DAISI includes a Victim Notification System. As Phase One, this system calls victims of Domestic Violence to alert them regarding the release of the perpetrator. Phase II and III will encompass inmate and case information for a fee, off-setting the cost of the system and creating a revenue source for Sheriff's Department. The first system has been installed in the Harris County Sheriff’s Department, USA. The following extract is from the DAISI homepage on the internet: http://www.daisi.com/gov/about.htm.

Description.
DAISI provides the following services:

CHILD SUPPORT HOTLINE: DAISI answers the call regarding child support payment, mailing addresses and phone numbers, filing cost and procedures. As part of your data network, DAISI reads information in your data files, converts that information to AUDIOTEX and speaks that information to the caller.

JURY INFORMATION HOTLINE: Jurors call to verify service status, re-schedule service obligation, get directions, court assignments and more. By comparing the current date to the date of the juror's summons, DAISI predicts the probable nature of the call and responds with an appropriate voice prompt.

VICTIM NOTIFICATION: When a case demands victim notification, DAISI dials the victim's number and speaks a message regarding the imminent release of the perpetrator. Upon case release, DAISI receives instructions from the data system and begins calling the victim's number as listed in the booking file. DAISI can determine busy, answering machines, pagers, and other call conditions reacting to each event in a predetermined way. Programming is flexible to conform to applicable law.

INMATE HOTLINE: Concerned citizens, inmates and charged persons can track cases as they move through the court system. Inmate’s relatives can inquire regarding visitation, personal items, location, charges, bonding, hearings and more without live operator assistance.

CALL ROUTING: Direct calls to specific extensions or to an application. Utilizing a programmable DAISI Automated Attendant (call routing), callers could PRESS I for criminal cases, 2 for civil cases, 3 for child support, 4 for jury service, 5 for administrative or zero for operator.

Resource person or organization to contact for further information
DAISI
P.O. Box 5605 Katy, TX 77491
20239 Kings Camp., Suite 3A, Katy, TX 77450 (713) 2244000
(800) DAISI 0 1 (324-7401)
fax (281) 579-7498

info@daisi.com
http://www.daisi.com

IV. Sentencing and Corrections

(C) IMPACT OF VICTIMIZATION

Section 9(c) of the Model Strategies urges Member States, as appropriate to take into account in the sentencing process the severity of the physical and psychological harm and the impact of victimization, including through victim statements where such practices are permitted by law.

Examples of Promising Practices Relating to Impact of Victimization:

TO BE ADDED

IV. Sentencing and Corrections

(D) SENTENCING OPTIONS

Section 9(d) of the Model Strategies urges Member States, as appropriate to make available to the courts through legislation a full range of sentencing dispositions to protect the victim, other affected persons and society from further violence

Examples of Promising Practices Relating to Sentencing Options:

TO BE ADDED

IV. Sentencing and Corrections

(E) TREATMENT OF THE OFFENDER

Section 9(e) of the Model Strategies urges Member States, as appropriate to ensure that the sentencing judge is encouraged to recommend treatment of the offender at the time of sentencing.

Examples of Promising Practices Relating to Treatment of the Offender:

TO BE ADDED

IV. Sentencing and Corrections

(F) VIOLENCE AGAINST DETAINED WOMEN

Section 9(f) of the Model Strategies urges Member States, as appropriate to ensure that there are appropriate measures in place to eliminate violence against women who are detained for any reason.

Examples of Promising Practices Relating to Violence against Detained Women:

TO BE ADDED

IV. Sentencing and Corrections

(G) OFFENDER TREATMENT AND EDUCATION PROGRAMS

Section 9(g) of the Model Strategies urges Member States to develop and evaluate offender treatment programmes for different types of offenders and offender profiles.

Examples of Promising Practices of Offender Treatment and Education Programs:

1. OFFENDER TREATMENT PROGRAMME - THE NONBEATING CHOICE: ALTERNATIVE TO VIOLENCE (FINLAND).....

2. OFFENDER TREATMENT PROGRAMMES: CHANGE PROJECT (SCOTLAND).....

3. DOMESTIC VIOLENCE INTERVENTION PROJECT IN HAMMERSMITH, LONDON (UNITED KINGDOM) .....

4. COMMUNITY-BASED PROGRAM FOR INTERVENTION IN DOMESTIC VIOLENCE INCLUDING TREATMENT FOR VIOLENT MEN - DOMESTIC ABUSE INTERVENTION PROJECT (UNITED STATES OF AMERICA).....

1. OFFENDER TREATMENT PROGRAMME - THE NONBEATING CHOICE: ALTERNATIVE TO VIOLENCE (FINLAND)

The Nonbeating Choice is based on the Finnish report “Naisiin kohdistuva vakivalta” (“violence against women”) by the Equality Between Men and Women in 1991 which offers individual and group counselling. This project was set up as a support centre for breaking off from family violence where men could discuss their violent behaviour and take part in treatment programmes.

Synopsis

Extract. This project was initiated by the director of Espoo refuge home, Sirkka Liisa Aaltio, senior researcher Pirkko Kiviaho from the subcommittee on Violence Against Women of the Council for Equality Between Men and Women, and Master of Theology Lasse Reijomaa. The basis for the work in the Nonbeating Choice is based on these principles: violence is never excused; man’s violence is his choice in solving his problems, and this leads to the fact that a man can also make a nonbeating choice to his problems, and violence always cause problems for the whole family.

The project identifies several areas of implementation in the form of activities. They offer a phone consultation service in which men can express in a confidential, private forum and have been receiving 4 to 6 calls daily. Individual counselling is also available, and in general make it easier for customers to join in the group activities, which are also available. The mandate of the treatment centres around a set of criteria for perpetrators of violence and how they assume responsibility for their actions. Finally, the project provides instruction and consultation to other agencies concerning violence and helping violent men. These include health care professionals, educational institutes, churches, mental health and social services, crisis help lines, providers of family therapy, refuge homes, etc.

Cost issues. This project was funded by the Raha-automaattiyhdistys, the government slot machine association.

Resource person or organization to contact for further information
The Nonbeating Choice
Annankatu 16 B
00120 Helsinki, Finland
Tel: 09-70028870

2. OFFENDER TREATMENT PROGRAMMES: CHANGE PROJECT (SCOTLAND)

The CHANGE project in Central Region, Scotland, is a community based program designed to re-educate men who have been found guilty of violence against their female partner. Men attend weekly sessions as a condition of their probation order. The following description of this project is taken from Rebecca and Russell Dobash's article "Men's Violence and Programs Focused on Change" (cited below).

Synopsis

Description. The CHANGE project works with men on probation who are directed to attend the project by order of the court. The men's programme began in 1990. It offers a group approach designed to ensure that the offender take responsibility for his own actions. During the programme, the man should learn about power and control issues in relationships be men and women, and about how to change his own controlling, dominating actions. The project focuses clearly at all times on stopping the violence, and on attempting to change men's attitudes to the abuse of their partner. It attempts to demystify and expose the ways in men often blame their partner, or deny or minimise their own actions. One of its prime aims is to protect the safety of women children associated with men on the programme, although its staff and others point out that there can clearly be no guarantee about this. The CHANGE project also has a wider remit which includes liaison, training, education and stimulating a broad debate about the issue of violence to women. It has, for example, devised a training package used as in-service training for social workers.

Implementation details. Considerable time and effort was needed to develop these programs including a six month period of planning, training and program development as well as consultations with procurators fiscal, sheriffs and court social workers. Professionals in criminal justice, social work and Women's Aid offered advise and assistance.

Cost issues. CHANGE is funded by the Urban Programme and sponsored by Central by Central Region Council Social Work Department.

Evaluation. Rebecca and Russell Dobash, who were involved in the initial impetus to establish the project, are conducting an extensive comparative evaluation of the two Scottish projects (CHANGE and Lothian Domestic Violence Probation Project). Many women's group are suspicious of CHANGE, however, and wish to wait for the results of the evaluation before making a judgement about it. It has the cautious support of WAFE and, most importantly, of Scottish Women's Aid which contributes to its management.

Scottish Women's Aid has evolved various conditions which regulate its support of men's programmes. These include the provision of support and safety for the women and children involved, the understanding that violence in the home is a result of the relative positions of men and women in society, an emphasis on men taking full and unequivocal responsibility for their violence, the use of court mandates, equal funding for Women's Aid and support for increased provision of refuges and other options for women and children, the recognition of Women's Aid's expertise, and the importance of effective monitoring, evaluation and research. These conditions have been further discussed by Scottish Women's Aid and CHANGE, and resulted in a joint policy statement agreed in August 1991.

Selected sources

1. Dobash, Rebecca and Russell Dobash "Men's Violence and Programs Focused on Change" in 8 Current Issues in Criminal Justice (1997) 243.

3. DOMESTIC VIOLENCE INTERVENTION PROJECT IN HAMMERSMITH, LONDON (UNITED KINGDOM)

The Domestic Violence Intervention Project provides a Women's Support Service (WSS) for women who have suffered or are suffering domestic violence and A Violence Prevention Programme (VPP) for violent men. The following summary is taken from the report Supporting women and challenging men: Lessons from the Domestic Violence Intervention Project (cited below).

Synopsis

Description. This project was piloted in London based on the Duluth model of coordinated community intervention. The Domestic Violence Intervention Project provides a Women's Support Service (WSS) for women who have suffered or are suffering domestic violence and A Violence Prevention Programme (VPP) for violent men. These services were located in separate premises, offering an alternative way forward in dealing with the difficulties of providing adequate support for the women partners or ex-partners. The Hammersmith Domestic Violence Intervention Project is the first programme in England to accept referrals through the courts. It accepts both court-mandated and voluntarily referred violent men, although most of the men currently do not come through the courts. An important innovation is that, like some of the North American programmes, the men's programme of counselling is accompanied by a separate sister project providing support and assistance for the women. The women's project runs from different premises so that the women partners and ex-partners can feel secure attending, and enjoys the support of local Women's Aid groups.

Cost issues. The Hammersmith project is in danger of closing due to lack of funding. Initial funding came from the government and was later augmented by partnership monies from the Inner London Probation Service.

Evaluation. A good report on lessons learned from this programme is found in the report described above.

Selected sources

1. Burton, Sheila, Linda Regan and Liz Kelly Supporting women and challenging men: Lessons from the Domestic Violence Intervention Project (The Policy Press: University of Bristol: 1998)

2. Adams, D. "counselling for men who batter: A pro-feminist analysis of five treatment models" in K. Yllo and M. Bograd Feminist Perspectives on Wife Abuse (Beverly Hills Sage: 1988)

3. Burns, N., Meredith, C. and Paquette, C. Treatment programs for men who batter: A review of evidence of their success, Working document: 1991

4. Pence, E and Paymar, M. Education groups for men who batter: The Duluth Model (New York: Springer)

4. COMMUNITY-BASED PROGRAM FOR INTERVENTION IN DOMESTIC VIOLENCE INCLUDING TREATMENT FOR VIOLENT MEN - DOMESTIC ABUSE INTERVENTION PROJECT (UNITED STATES OF AMERICA)

The following description is taken from the National Council of Juvenile & Family Court Judges report on Family Violence: State of the Art Court Programs.

Synopsis

Description. This program is a comprehensive, community-based program for intervention in domestic violence cases. The program sets out the following mandate:

- Provides victims with immediate protection and safety by a swift police response, available emergency shelter, advocacy and education for victims, and temporary court intervention.
- Brings domestic abuse into the court system with the intention of deterring, punishing, and rehabilitating offenders. This is accomplished by a combination of firm pro-arrest policy by police, strong guidelines and procedures to increase prosecution convictions, pre-sentence investigations and post-conviction probation guidelines, enforcement of civil protection orders, and the co-ordination of the flow of interagency information.
- Imposes and enforces legal sanctions through the courts with increasingly harsh penalties for repeat offenders
- Provides treatment programs for assailants to change their abusive behaviour, with a structured curriculum of 26 weeks of counselling, and educational programs as a requirement of court sentencing which promotes mandatory, long-term court ordered and monitored group counselling. All repeated acts of violence are reported to the court.

Cost issues. This program received a budget of 191,118 for the year 1992

Resource person or organization to contact for further information
Training Co-ordinator
206 W. Fourth Street, Room 201
Duluth, Minnesota 55806
(218) 722-2781

Selected sources
1. National Council of Juvenile & Family Court Judges, Family Violence: State of the Art Court Programs (National Council of Juvenile & Family Court Judges: 1992)

IV. Sentencing and Corrections

(H) PROTECTING THE SAFETY OF VICTIMS AND WITNESSES

Section 9(h) of the Model Strategies urges Member States to protect the safety of victims and witnesses before, during and after criminal proceedings.

Examples of Promising Practices Relating to Protecting the Safety of Victims and Witnesses:

1. SEX OFFENDER RISK ASSESSMENT SORA (CANADA).....

2. SPOUSAL ASSAULT RISK ASSESSMENT (SARA) (CANADA).....

1. SEX OFFENDER RISK ASSESSMENT SORA (CANADA)

In cases of sex offenders, a specialized risk/needs assessment instrument has been developed in Canada to assesses the risk of sexual re-offending. This instrument, called the Sex Offender Risk Assessment (SORA) was developed in 1995 through the B.C Institute on Family Violence by Drs. R.L. Atkinson, P. Randall Kropp, D.R. Laws and Stephen D. Hart.

Resource person or organization to contact for further information
B.C. Institute on Family Violence
551-409 Granville Street
Vancouver, British Columbia
Canada V6C 1T2
www.bcifv.org
e-mail: bcifv@bcifv.org

Selected sources
1. Boer, D.P, Hart, S.D. Kropp, P.R., and Webster, C.D. Manual for the sexual violence risk-20: Professional guidelines for assessing risk of sexual violence. (Vancouver: BC Institute Against Family Violence: 1997)

2. SPOUSAL ASSAULT RISK ASSESSMENT (SARA) (CANADA)

A specialised risk/needs assessment instrument has been introduced for cases of "spousal assault" that assess any actual, attempted or threatened physical harm perpetrated by a man or a woman against someone with whom he or she has, or had, an intimate, sexual relationship.

This instrument, called the Spousal Assault Risk Assessment (SARA) was developed in 1993 through the B.C. Institute on Family Violence by Drs. P. Randall Kropp, Stephen D. Hart, Christopher D. Webster and Derek Eaves.

The British Columbia Ministry of Attorney General has supported the distribution of risk assessment tools developed by the B.C. Institute on Family Violence. The SARA Guide focuses attention not only on the level of danger an offender may pose, but also on how to reduce the danger and create safety for women and children.

Resource person or organization to contact for further information

B.C. Institute on Family Violence
551-409 Granville Street
Vancouver, British Columbia
Canada V6C 1T2
www.bcifv.org
e-mail: bcifv@bcifv.org

V. VICTIM SUPPORT AND ASSISTANCE

(A) INFORMATION ON RIGHTS AND REMEDIES

Section 10(a) of the Model Strategies urges Member States to give women who have been subjected to violence information on their own case, information on their rights and remedies and how to assert them, in addition to information about what to expect from criminal proceedings.

Examples of Promising Practices Relating to Information Rights and Remedies:

1. INTERNATIONAL CRIME VICTIM COMPENSATION PROGRAM DIRECTORY 1997 (UNITED STATES OF AMERICA).....

2. THE POLICE AND EVIDENCE LAW: INVESTIGATING FAMILY VIOLENCE AGAINST VICTIMS WITH DISABILITIES (CANADA).....

3. NEW DIRECTIONS FROM THE FIELD: VICTIMS' RIGHTS AND SERVICES FOR THE 21ST CENTURY (UNITED STATES OF AMERICA).....

4. CREATING A COMMUNITY RESPONSE TO ABUSED WOMEN & THEIR FAMILIES: THE DURHAM REGION EXPERIENCE. (CANADA) .....

5. BURNABY COMMUNITY PROTOCOLS FOR VIOLENCE AGAINST WOMEN IN RELATIONSHIPS: (CANADA) .....

6. DAWSON CREEK VIOLENCE AGAINST WOMEN IN RELATIONSHIPS: COMMUNITY PROTOCOL (CANADA) .....

7. LEGISLATION SETTING OUT STANDARDS OF SERVICES TO VICTIMS OF CRIME VICTIM'S CHARTER, 1996 (UNITED KINGDOM).....

8. VICTIM'S CHARTERS: CHARTER FOR VICTIMS OF CRIME (IRELAND) .....

9. PAMPHLET ON INFORMATION ON YOUR RIGHTS ENTITLED "ASSAULT: VIOLENCE AGAINST WOMEN IN RELATIONSHIPS" PRODUCED BY THE JUSTICE INSTITUTE OF BRITISH COLUMBIA AND LEGAL SERVICES SOCIETY OF BRITISH COLUMBIA (CANADA).....

10. VICTIMS OF CRIME ACT IN BRITISH COLUMBIA (CANADA) .....

11. VICTIM IMPACT STATEMENT FORMS: THE MINISTRY OF ATTORNEY GENERAL BRITISH COLUMBIA (CANADA) .....

12. CRIMINAL INJURY COMPENSATION ACT AMENDMENTS BRITISH COLUMBIA 10(A)-29 (CANADA)

13. PROCEDURAL GUIDELINES TO SOCIAL WELFARE AGENCIES AND APPROPRIATE NGOS IN ASSISTING VICTIMS OF RAPE AND SEXUAL OFFENCES (SOUTH AFRICA).....

14. PAMPHLET: VICTIMS OF SEXUAL OFFENCE: WHAT YOU SHOULD KNOW (SOUTH AFRICA) .....

1. INTERNATIONAL CRIME VICTIM COMPENSATION PROGRAM DIRECTORY 1997 (UNITED STATES OF AMERICA)

The Office for Victims of Crime (OVC) in the U.S. Department of Justice has developed this International Victim Compensation Program Directory in an effort to identify program parameters in other countries and to complement the *National Association of Crime Victim Compensation Boards'* directory of U.S. compensation programs. The following has been summarized from the Program Directory.

Synopsis

Description. All around the world, victims of crime suffer physical injuries, emotional pain, and financial losses. Crime victim compensation programs provide victims with a desperately needed financial safety net and play a key role in healing. As society becomes increasingly mobile, countries are faced with the victimisation of citizens not only from their own nations, but from foreign nations as well. The implementation of this directory is noted as a successful link to international victim compensation programs and the world-wide effort to help victims of crime.

Implementation Details. This Directory is a collaboration between OVC and the U.S. Department of State. In attempting to compile a comprehensive directory of compensation programs world-wide, the U.S. State Department surveyed U.S. embassies in 174 countries. Questionnaires were then forwarded on to the appropriate officials in each country. OVC also contacted victim assistance programs throughout the world. Of the 91 inquiries, 30 reported having existing programs. Results have shown that of the 30 countries with programs, all but three offer benefits to foreign citizens and which countries offer benefits for victims of terrorism in addition to other crimes.

Cost Issues. Funding supplied by The Office for Victims of Crime and The U.S. Department of Justice

Evaluation. Not noted

Resource Organisation
Office for Victims of Crime
or
the National Association of Crime Victim Compensation Boards

Selected Sources
1. Office for Victims of Crime OVC Fact Sheet: Initiatives to Combat Violence Against Women

2. THE POLICE AND EVIDENCE LAW: INVESTIGATING FAMILY VIOLENCE AGAINST VICTIMS WITH DISABILITIES (CANADA)

The purpose of this report is to explore and clarify the complexities of evidence law as it relates to police investigation of family violence against persons with disabilities. Based on a review of legal and social science texts completed in February 1993, this report describes the social status of persons with disabilities, examines the rules defining the rights of witnesses with a disability and sets out the resulting implications for police investigation. It also reviews laws and reform recommendations in several jurisdictions relating to the evidence of witnesses with a disability.

Synopsis

Description. Where a victim of family violence is disabled, police officers will face special problems investigating the complaint and gathering evidence. One reason for this is the highly dependent relationships which people with disabilities have with their family and caregivers and the resulting vulnerability to abuse which persons with disability experience. While the vast majority of persons with disabilities live outside institutions and most are married, they rely on a network of caregivers who form a kind of extended family.

Implementation Details. This report outlines procedural issues as they pertain to persons with disabilities. Discussed are changes to law resulting from new legislation and court decisions and the increased access to criminal courts; the impact of the New Evidence Rules and Human Rights Legislation on police investigation, and the variety of approaches taken by other jurisdictions such as the United States, Australia, and Scotland.

Cost issues. Funded by the Federal Government of Canada

Evaluation. Not noted

Resource organisation

Solicitor General Canada
Policing Division
Ottawa, Ontario, Canada

Selected sources

1. Paper on Mandates and Protocols: Response to Domestic Violence: The Justice System

2. Department of Justice and the Office for Victims of Crime: OVC Bulletin: Working with Victims of Crime with Disabilities

3. Pamphlet published by the Community Legal Information Association of Prince Edward Island, Canada: A Guide for Witnesses

3. NEW DIRECTIONS FROM THE FIELD: VICTIMS' RIGHTS AND SERVICES FOR THE 21ST CENTURY (UNITED STATES OF AMERICA)

New directions from the Field: Victims' Rights and Services for the 21st Century challenges the United States as a nation to renew and refocus its efforts to improve the treatment of victims of crime. It highlights the progress and the momentous changes that have taken place in the last fifteen years, and identifies hundreds of innovative public policy initiatives and community partnerships that are revolutionising the treatment of crime victims in America today. The following text is summarized from *New Directions from the Field: Victims' Rights and Services for the 21st Century.*

Synopsis

Description. Today only a fraction of the nation's estimated 38 million crime victims receive much-needed services such as emergency financial assistance, crisis and mental health counselling, shelter, and information and advocacy within the criminal and juvenile justice systems. This report presents more than 250 recommendations targeted to nearly every profession that comes in contact with crime victims - from justice practitioners, to victim service , health care, mental health, legal, educational, faith, news media and business communities, and encourages them to redouble their efforts to enhance victims' rights and services.

Implementation details. This report reflects views from a broad cross-section of the criminal and juvenile justice, allied professional, and victim service fields. Contributors to this report include crime victims themselves and representatives of the agencies and organisations that serve them. Hundreds of individuals across the country proposed recommendations for this report by participating in public hearings; submitting background papers on diverse victims' issues; serving on working groups with representatives from law enforcement, prosecution, and corrections agencies as well as the judiciary; and participating in focus groups with allied professionals.

Contributors to this report hope that it will serve as a catalyst for discussion on how the nation can improve its response to victims of crime, and what steps can be taken toward making the ideas presented in the report a reality.

Cost Issues. Funding for this project was supplied by the United States government and the Department of Justice

Evaluation. Not noted

Resource Organisation
U.S. Department of Justice and the Office of Justice Programs

Selected Sources
1. New directions from the Field: Victims' Rights and Services for the 21st Century

4. CREATING A COMMUNITY RESPONSE TO ABUSED WOMEN & THEIR FAMILIES: THE DURHAM REGION EXPERIENCE (CANADA)

The following was taken from *Creating a Community Response* which describes the pitfalls and successes of taking a community through the process of developing new understandings as well as new policies and approaches to woman abuse.

Synopsis

Description. The practical approach to ensuring standardised, quality service to abused women and their families is to develop guidelines for systems and organisations. While this approach is essential, the effective utilisation of guidelines must also encompass a solid understanding of the underpinnings and dynamics of women abuse. Women abuse, by definition, is recognised as a societal problem, which manifests itself as a man's right to have power and control over his female partner. Specific sections of this manual reflect this awareness, stating that all forms of violence are symptoms of the use of power and control. The protocol recognises that the resulting dynamics are complex. Professionals need to know and understand them if guidelines and interventions are to be effective.

Implementation Details. The introduction to the project lays the foundation for the importance of challenging professionals to work within a process which is potentially very different than the way they are working at the present. Working with abused women may mean significant implications of time, resources and the intensity of the work. The approach section defines the responsibilities of the systems, the physical and psychological indicators of abuse, and outlines the unique roles played by all governmental and non-governmental agencies as they encounter the abused women and their families. It co-ordinates and links agencies when appropriate, and concludes with the challenge that churches need to review their policy on abuse within the family structure. The directive guidelines within this manual are educational as well as practical for implementation purposes.

Cost issues. Funding provided by the Department of Justice, the Federal Solicitor General, National Health and Welfare, Ontario Solicitor General and the Ministry of Community and Social Services

Evaluation Not noted

Resource organisation
Don Sider
Family Counselling Division
Durham Region Department of Social Services
Ontario: Canada

Selected sources
1. Creating A Community Response to Abused Women & Their Families: The Durham Region Experience.

5. BURNABY COMMUNITY PROTOCOLS FOR VIOLENCE AGAINST WOMEN IN RELATIONSHIPS (CANADA)

The Burnaby Social Service community has recognised the enormity of the problem of violence against women and the limitations of current social responses. In September 1990, the Burnaby Inter-Agency Counsel established a Task Force on Family Violence. From this task force a Burnaby Community Co-ordinating Committee called VINA (Violence Is Never Acceptable) was formed. This committee has met regularly to co-ordinate services and has undertaken several community initiatives. From this interaction, ideas grew on how to implement the protocols, identify problems and gaps in services, and develop an action plan to improve community service and collaboration. The following was obtained from the Burnaby Community Protocols for Violence Against Women in Relationships.

Synopsis

Description. This community is committed to the eradication of violence against women in relationships and its impact on children who witness this abuse. Through the sharing of knowledge and resources, we will create a co-ordinated and effective response to incidents of violence against women in relationships, promote awareness and change in social attitudes, and ultimately realise the elimination of violence against women in our community and society. Violence against women in relationships is defined as sexual or physical assault, or the threat of physical or sexual assault of women by men with whom they have had ongoing or intimate relationships, whether or not they are legally married or living together at the time of the assault or threat. Other behaviour such as intimidation, mental or emotional abuse, sexual abuse, neglect, deprivation, and financial exploitation must be recognised as part of the continuum of violence against young and elderly women alike.

Implementation Details. The goals of the project were to enhance community collaboration in response to violence against women, and to produce community protocols describing services provided and outlining agency commitments in responding to violence against women, children who witness, and men who are assaultive. Information for this project was gathered from many other communities, and involved twenty-five agencies, both government and non-government. The advisory committee met regularly to provide direction for the project, usually in the form of protocol workshops, and the process for each agency was tailored to meet that agency's needs. A Protocol Workshop invited participants to view the draft document and provide feedback, while at the same time, developed a list of recommendations for future action.

Cost issues. Funding for the Protocol Project was received from the British Columbia Ministries of the Attorney General and Women's Equality, and from the Vancouver Foundation.

Evaluation. Noted that the ongoing success of this project is to be measured in enhanced collaboration between agencies and improved services. Also noted was the challenges related to funding cutbacks, and increased pressure on all services.

Resource Organisation(s). Noted in the report

Selected sources

1. Burnaby Community Protocols for Violence Against Women in Relationships

6. DAWSON CREEK VIOLENCE AGAINST WOMEN IN RELATIONSHIPS: COMMUNITY PROTOCOL (CANADA)

The following text, obtained from the revised Dawson Creek Violence Against Women in Relationships: Community Protocol, arose out of a recognition of the changes that have occurred in legislation in British Columbia since the original protocol was developed in 1993. Changes to firearms regulations, the introduction of Criminal Harassment legislation and recommendations from a multiple homicide that took place in British Columbia in 1996 have all been reviewed in conjunction with updating the protocol.

Synopsis

Description. The members of the community protocol committee define violence against women in relationships as physical or sexual assault, or the threat of physical or sexual assault of women by men with whom they have, or have had ongoing or intimate relationships, whether or not they are legally married or living together at the time of the assault or threat. Other behaviour, such as intimidation, mental or emotional abuse, sexual abuse, neglect deprivation, kidnapping or threats towards children and loved ones and financial exploitation, must be recognised as part of the continuum of violence against young and elderly women alike.

Implementation Details. The goals of the community protocol are based on a fundamental mission statement which states: the use of a community based, co-ordinated approach to service delivery for all those affected by violence in their relationships; to provide and promote greater sensitivity to and understanding of the needs of victims of violence within the justice and social systems, and ensure that their needs are effectively met; to evaluate; improve the effectiveness of existing social services and justice system responses to victims of violence and to actively promote community awareness through education and research relating to the dynamics and solutions of violence against women and encourage individual members within their agencies to work together in addressing violence against women issues. Within the manual, the protocol defines many of the agencies and services connected to, or co-ordinating with violence against women, and defines the protocol necessary to implement the strategies.

Cost Issues. Not noted

Evaluation. Not noted

Resource Organisation
Dawson Creek Protocol Committee
British Columbia: Canada

Selected sources
1. Dawson Creek Violence Against Women In Relationships: Community Protocol

7. LEGISLATION SETTING OUT STANDARDS OF SERVICES TO VICTIMS OF CRIME VICTIM'S CHARTER, 1996 (UNITED KINGDOM)

The first Victim's Charter in the UK was published in 1990 and revised with the 1996 UK Victim's Charter. It sets out improved and extended standards of service to victims. It tells victims what level of service they should expect from the police, the courts and other agencies from the moment they report a crime. And it makes it clear which agency is responsible at each stage and gives contact points for complaints if standards fall short. The following expert is from the Victim's Charter.

The Victim's Charter sets out:
- what happens when a crime is reported
- what information victims can expect to receive from the police about the progress of their case
- what opportunity victims have to explain how the crime has affected them and how this is taken into account
- what happens at the court
- what support victims, family and friends will receive at the court before, during and after the trial, from the police and Victim Support
- what special help is available for victims of serious crime and certain types witnesses such as children or victims of a sexual crime
- what information is available about the release of offenders and
- what victims can do if they are unhappy with the service provided.

Description. Victims Charter

WHAT WILL HAPPEN
HELP FROM THE POLICE

When you report a crime the police will investigate it as quickly as possible. If you wish, they can also give you crime prevention advice for the future. A useful booklet is 'Your Practical Guide to Crime Prevention'. You can get this from Crack Crime.

If any of your stolen property is recovered and identified, the police will return it to you as soon as possible. If they cannot do so immediately, they will explain why and tell you when you are likely to get it back.

The police are your main point of contact for information on what is happening with your case. If they cannot help you themselves they will put you in touch with someone who can.

VICTIM SUPPORT

Victim Support is an independent registered charity which receives financial support from the government. It offers help to victims of crime. The police tell Victim Support about most cases (see You can expect to be offered emotional practical support) or will ask if you want to be put in touch with Victim Support.

Victim Support will aim to send you a letter, phone you or arrange a visit from a volunteer within four working days of you reporting the crime. Victim Support's services are free and confidential. Staff and volunteers come from all sections of the local community and are specially trained to help victims of crime. A volunteer will show you an identity card which is issued by the national office of Victim Support and approved by the police.

Victim Support offers emotional support to help you cope with your experience. They also give you practical help, such as help with claims for insurance or criminal injuries compensation, and information about other organisations which may be able to help with specific problems.

You can also get in touch with your local Victim Support scheme yourself. Details are in the phone book, or you can contact the national office.

COMPENSATION

You may be able to get compensation from two sources. If someone is found guilty, the court must consider ordering them to pay compensation for any loss, injury or damage you have suffered. The offender has to pay compensation before any fine. Compensation is limited to what the offender can reasonably afford, so may not cover your loss or injury in full. The compensation is often paid in instalments.

If you have been injured as a result of a violent crime you may be able to get compensation under the Criminal Injuries Compensation Scheme. Someone does not have to be caught and found guilty for you to be able to claim compensation. Details are given in the leaflet 'Victims of Crimes of Violence - a guide to the Criminal Injuries Compensation Scheme'. You can get this from the police or the Criminal Injuries Compensation Authority.

WHAT HAPPENS IF SOMEONE IS CAUGHT

If someone is caught, the police will decide whether to caution them or charge them. A formal police caution is a way of dealing with people who have offended for the first time or whose offence is not too serious. When deciding whether to caution someone, the police will consider the harm done to you and will take your interests into account.

If the police decide to charge someone the case is passed to the Crown Prosecution Service (CPS). The CPS prosecutes cases in court.

The CPS looks carefully at every case and keeps them under review. The Crown Prosecutor will decide whether there is enough evidence for there to be a realistic prospect of conviction. If there is not, the case will not go ahead, however serious the offence was. If there is enough evidence, the Crown Prosecutor will take your interests into account when considering whether it is in the public interest for the prosecution to continue. The Crown Prosecutor may also decide to alter the charges, depending on the relevant facts in the case.

BEING A PROSECUTION WITNESS

The police will tell you if you need to appear in court as a witness. Most cases are dealt with in magistrates' courts. The more serious offences go to the Crown Court for trial by jury. There is a separate charter for the Crown Court, called the 'Charter for Court Users'. You can get a copy from the Court Service Headquarters. There is also a growing number of local Charters for magistrates' courts.

Arranging a court case can be complicated, particularly if there are a lot of people involved. If the police have told you that you may be needed as a witness, let them know if there are any days when it would be difficult for you to attend court. Those arranging the case will do their best to make sure that the case comes to court as quickly as possible and that it is on a day which is convenient to you.

WITNESS SERVICE

There is a Witness Service in every Crown Court centre. The Witness Service is run by Victim Support and is independent of the court, police and CPS. They will support you and your family and can arrange for you to visit a courtroom before you give evidence and provide information on court proceedings. If you wish, they can arrange for someone to accompany you into the courtroom.

If you are already in contact with Victim Support they will be able to put you in touch with the Witness Service. You will receive the Witness Service leaflet 'Going to Court' or a letter when you are called to give evidence. You can also get copies from your local Victim Support scheme or the national office of Victim Support.

HELP AT COURT

Giving evidence in court can be stressful. The people involved - the police. the CPS, the Witness Service and court staff- will give you as much information as possible about what is likely to happen. However, they cannot discuss your evidence or the details of the case.

You will be sent a letter telling you where and when the trial will be. With this letter there will be a leaflet called 'Witness in Court' which explains what will happen. You will also receive information about the court facilities. Crown Court centres have a Customer Service Officer who you can ask about facilities at the court If you are going to a magistrates' court and you have any questions about the facilities, you should contact the police, who will put you in touch with the court.

When you arrive, you will find clear signs to help you find your way around. A representative of the CPS or Witness Service will tell you which courtroom your evidence will be heard in. The CPS representative will also be able to deal with any questions you have about procedures and tell you approximately how long you will have to wait before giving your evidence.

Everyone will do their best to make sure that you are called to give evidence as soon as possible. However, there are sometimes delays. If you have to wait, court staff or a representative of the CPS will tell you why and say how long the wait is likely to be.

SPECIAL HELP FOR CERTAIN TYPES OF WITNESS

Children

If children are witnesses in cases involving sex, violence or cruelty, the police will give them and their parents or carers an information pack called 'Child Witness'. You can get further copies from the NSPCC.

Many Crown Court centres have special facilities so that, where appropriate, children can give their evidence from a private room over a TV link with the courtroom. When a case is sent for trial from a magistrates' court the CPS can ask for it to be sent to a Crown Court with this equipment. This may mean travelling to a court which is less convenient.

Crown Court centres have a Child Witness Officer to answer questions about the facilities at the court and court procedures. They will liaise with the judge and the court staff to make sure that the case comes to court as soon as possible. If a TV link is to be used, the Child Witness Officer will explain how the equipment works. When the child arrives at court to give evidence, the officer will take the child to a private waiting area away from the defendants.

Fear of attack

If you are worried about being attacked or harassed as a result of the court case, you should tell the police. They will tell you what can be done and tell the CPS so that they can let the court know at the time bail is being considered.

If the accused person is released on bail, the police will do their best to tell you as quickly as possible. They will tell you whether there are any conditions attached to the bail and what you can do if the conditions are broken.

When you give evidence, the judge or magistrate may agree that your name and address should not be read out in court. They may also allow you to give evidence from behind a screen. It is up to the judge or magistrates to decide whether to allow this to happen. If you want these arrangements to be considered, you should tell the police or the CPS.

Rape and sexual assault
If you have been raped or sexually assaulted your identity will not be revealed in court. It is also a criminal offence for anyone to publish your name, address, photograph or other details which may identify you.

WHAT HAPPENS IN COURT
If you have to give evidence you can ask to have a friend or supporter in the court. Someone from the Witness Service can accompany you if you wish. After you have given evidence you will be told whether you can leave. You can watch the rest of the case if you wish.

A high standard of proof is needed before someone can be found guilty. This may mean someone who you are sure is guilty is not actually found guilty. This is not a judgement on you but on the strength of the prosecution case as a whole.

When someone is found guilty their lawyer may put forward arguments for a lighter sentence. This is called a plea in mitigation. If this includes information which the CPS know is untrue they will say so.

Before sentence is passed the magistrates or judge may ask the probation service to prepare a 'pre-sentence report' on the offender. The report will include an assessment of the effect the crime had on you. This may be taken from witness statements you may have given which are provided to the probation service by the CPS.

In certain limited cases, the Attorney General may refer cases, where the sentence passed in the Crown Court is unduly lenient, to the Court of Appeal. This must be done within 28 days of the sentence being passed. If you believe that the sentence has been unduly lenient, you can discuss this with the local office of the CPS, who have put in place systems by which potentially unduly lenient sentences can be brought to the attention of the Attorney General.

If there is an appeal against the conviction or sentence in a case where someone has been killed, raped or sexually assaulted, the police will keep you informed of developments. They will tell you the date of the hearing, if someone is granted bail, and the result of the appeal.

AFTER THE COURT CASE
If you are still worried about your safety the police can give you advice on what to do to protect yourself. Where appropriate, the police may be able to give you practical help.

VICTIM HELPLINE
If a prisoner contacts you and you do not want this to happen again, or if you have any concerns about possible release, you can use a phone helpline to make sure that the prison governor knows your concerns. The helpline number is 0345 585112.

INFORMATION ABOUT THE RELEASE OF OFFENDERS
In life sentence cases and other cases involving serious sexual or violent offences, the probation service will get in touch with you within two months of the sentence being passed to ask if you want to be told about any plans for releasing the prisoner. They will explain what happens during the sentence and especially how any decision to release the offender will be made. No life sentence prisoner will be released until they have served the period set for retribution and deterrence and the Home Secretary, in the case of murderers, or the Parole Board, for other life sentence prisoners, is satisfied that it is safe to do so.

When release is being considered, the probation service make careful plans and arrangements for supervising offenders. The probation service will take your concerns into account when making their plans. The offender may still be released, but conditions may be attached to their release. If the offender behaves in a way which suggests that they may present a risk to public safety, or they break any conditions attached to their release, they may go back to prison.

Offenders who are detained in hospital will only be discharged if a full and careful assessment shows that the person is no longer a risk to the public. As a general rule, a patient's treatment and progress in hospital are confidential and, unless the patient consents to information being given out, this limits the information you can receive about an offender's release.

More detail about life sentences for murder and offenders detained in hospital after committing homicide is given in the pack 'Information for Families of Homicide Victims'.

Implementation details. The Charter was produced in consultation with Victim Support and with all the criminal justice agencies responsible for delivering services to victims of crime.

Cost Issues. Not noted

Evaluation. Not noted

Selected Sources

1. Legislation Setting Out Standards Of Services To Victims Of Crime Victim's Charter, 1996 (United Kingdom)

8. VICTIM'S CHARTERS: CHARTER FOR VICTIMS OF CRIME (IRELAND)

This following is an Irish Department of Justice publication, the Charter for Victims of Crime, which is intended to be a guide only, and does not purport either to interpret the legislation it refers to, or to confer legal rights. This Charter sets out the standards by which the Irish Government expects victims of crime to be treated. In acknowledging that victims should be given special support, the Charter sets out the specific arrangements for providing this support. Specifically, the Charter sets out the full supporting structure available to victims in terms of the legislative framework underpinning victims rights, the specific role of the Gardai and the range of services available from both State and voluntary organisations. The aim of the Charter is to provide a supportive environment within which victims of crime will feel comfortable in approaching the various services and be reassured that they will be treated with the courtesy and dignity which they deserve.

Extract from text. The text of the Charter for Victims of Crime is as follows:
HOW THE LAW SUPPORTS YOU

Sentences
In all convictions on indictment, the Director of Public Prosecutions can apply for the review of sentences which the Director considers to be unduly lenient.

Child's evidence
Certain requirements in relation to the corroboration of a child's evidence are abolished.

Assessing the effect of the crime
The Court can decide before passing sentence how it should actually go about informing itself of the effect the crime has had on you.

The Court must, in particular, when determining the sentence to be imposed for a sexual offence or an offence involving violence or the threat of violence, take into account any effect (including any long-term effect) which the offence has on you. This provision applies to both 'guilty' and 'not guilty' pleas. On application by such a victim, the Court must hear his or her statement on the effect of the offence.

Victim Impact Reports compiled by the prosecuting Garda, describing the effects of the crime on you and your family, may be considered by the Court before sentence is imposed.

Compensation
The Court has a general power to require offenders to pay compensation to you for any resulting personal injury or loss. The compensation order may be instead of, or in addition to, dealing with the offender in any other way. The

Court may give preference to making a compensation order rather than imposing a fine where the means of the offender are insufficient to pay both.

The Gardai have been instructed to ensure that you are informed in this area.

Reporting restrictions

Statutory restrictions have been placed on the reporting of certain types of court cases (e.g. rape trials) and the case for extending the scope of these restrictions is currently under review.

Currently, the Court can order the payment of compensation to you by the parent or guardian of a child who is under 17 years of age and who commits an offence. This age limit will be raised to 18 by the Children Bill, 1996, which will also allow the Court to order the parent or guardian to enter into a recognisance to exercise proper and adequate control over their child.

The Children Bill also provides that, before a child is admitted to a Youth Diversion Programme, your views of the crime in respect of which the child's admission is being considered will be given due consideration. It is proposed that, where the child is admitted to the Diversion Programme and a family conference is held, you may be allowed to attend the conference if you so wish, and confront the child with the consequences of his or her actions in a controlled atmosphere.

The Bill also specifically empowers the Court to seek a victim impact report after it has found a child guilty of an offence and is considering the most suitable way of dealing with the child.

HOW THE GARDAI SHOULD SUPPORT YOU

The Gardai are obliged to respond to complaints of crime as promptly as the circumstances allow, and should do so with courtesy and attention. The Garda Siochana Recruit Training Programme now includes instruction on how to deal sympathetically with victims of crime. This instruction will be reviewed and updated as appropriate.

You should be given (and if not, you should ask for):

- the investigating Garda's name and Garda Station,
- the telephone number where he/she may be contacted for information relating to investigation, prosecution or court case,
- an outline of the investigation process,
- an assurance that you will be kept informed of developments in the case.

You should be specifically informed, as far as is possible, of significant developments in the case. For example, you should be:

- told when a suspect has been charged with the crime following the investigation,
- told when a decision has been taken not to prosecute but to caution the offender,

The institution of criminal proceedings is not automatic. In certain circumstances the Gardai may issue a caution, subject to certain conditions, to particular offenders, e.g., juveniles. In deciding whether to start proceedings the Gardai or the Director of Public Prosecutions will take into account any views you may have expressed.

Whenever practicable, the Gardai will tell you of a decision taken to caution rather than prosecute, and remind you of how you may be able to seek compensation by a civil court action.

- told whether the charged suspect is in custody or on bail,

As the Gardai will have to inform you of further court proceedings, they should, in serious offence cases, particularly where violence has been used, make every effort to notify you of the release on bail of the accused and of any conditions attached to the granting of bail, such as staying away from a particular area or if a curfew is imposed.

The present Garda instructions are to keep you informed of bail applications in serious cases. These instructions cover cases where the Court imposes bail conditions on the accused which directly affect you, e.g. an order to stay away from a victim.

- told of the date on which any court proceedings are expected to commence,

- told whether or not it is likely that you will be required to give evidence,
- told of the outcome of the proceedings if you are not present in Court.

You should be told, by the Gardai, of the result of the court case and any conditions attached, if you are not present in court to hear it. However, on a practical level it is sometimes difficult for the Gardai to ensure that the result is passed on to you in every instance but the Gardai aspire to providing the very best service possible in this regard.

Where, prior to sentencing, an accused asks that the Court takes other offences which he/she has committed into account and the Court accedes to this request, the victims of such crimes should also be informed as soon as possible.

Note:
Prior to the recent Bail Referendum, bail could be refused where:
(a) there was a likelihood of an accused person not turning up for trial or
(b) where there was a likelihood o fan accused person interfering with witnesses and/or evidence.

As a result of the Referendum, a third ground for refusal will be added.
(c) where the person is charged with a serious offence and where it is reasonably considered necessary to prevent the commission of a serious offence whilst awaiting trial.

Legislation to reflect this new ground and to tighten up on the bail regime generally is being prepared in the Department of Justice.

SERVICES AVAILABLE TO YOU

The Gardai will inform you of the existence of the full range of victim support services, including National Office/Helpline numbers and any local services which may be available.

A Garda Freephone confidential service is available to encourage you to contact the Gardai.

If you are injured as a result of a crime you may apply to the Criminal Injuries Compensation Tribunal for compensation. The Scheme, which is funded by the Department of Justice, allows for ex-gratia compensation in respect of "personal injury where the injury is directly attributable to a crime of violence, or in circumstances arising from the action of the victim in assisting or attempting to assist the prevention of crime or the saving of human life". The Scheme does not allow for payment to be made in respect of "pain and suffering".

Referral to the Tribunal may be made by the voluntary victim services or, alternatively, application may be made directly to the Tribunal. Details of the Scheme can be obtained from the Tribunal.

A suite for the use of victims of serious crimes (including rape and sexual assault) is being included in the plans which have been drawn up for a new Garda station at Store Street, Dublin 1. The suite facilitates medical examinations (and evidence gathering) and also includes a secluded rest area with a kitchen and bathroom facilities.

In any new building project or when an existing courthouse is being refurbished, the Department of Justice is, where possible, ensuring that the special needs of victims and witnesses are taken into consideration in the design of the new or refurbished building.

Accommodation has been made available to the Irish Association for Victim Support in the Four Courts and other courthouses.

Release dates

The Department of Justice will respond sympathetically to requests from victims of sexual offences or victims of serious personal attacks for firm indications of release dates from prison in respect of this category of offender.

Restitution

Measures are being examined by the Department of Justice whereby a convicted offender who is found to have means would be ordered to pay into a Restitution Fund. The result would be that any offender, irrespective of the nature of his/her offence, could be required to make such payments in addition to any sanction that could be imposed under existing law.

Office of the Director of Public Prosecutions

As one of the follow up measures to a review of the Office of the Director of Public Prosecutions, attention will be given to the needs of victims and witnesses of crime and to the relatives and friends concerned.

Every effort is made to ensure that the support for victims of crime is targeted as precisely as possible to meet particular needs. As a reflection of this policy, special attention is given to the needs of victims of sexual offences and domestic violence, and of tourists, the elderly and children.

VICTIMS OF SEXUAL OFFENCES

The Criminal Law (Rape) Act, 1981 (as amended by the Criminal Law (Rape) Amendment Act, 1990) In the case of rape or sexual assault, your identity is safeguarded from the moment a person is charged. This safeguard is permanent.

Any rule of law by virtue of which a man could not be found guilty of the rape of his spouse, is abolished.

The Criminal Evidence Act, 1992

This makes it easier for certain witnesses (mainly child witnesses) to give evidence in criminal cases involving physical or sexual abuse by ensuring that, with the Court's permission, their evidence may be given by live television link. In this way, if you are such a victim of physical or sexual abuse, you need not see the alleged offender in court.

The television link is currently operating in a Dublin District and Circuit Court and in the Central Criminal Court. Depending on the volume of cases, consideration will be given to extending the system to Provincial Courts at a later date. In the meantime, relevant cases in these courts can be transferred to Dublin for hearing.

The Criminal Justice Act, 1993

An obligation is placed on the Courts, when determining sentences for sexual and violent offences, to take into account the effect which the crime has had on you. Victim Impact Reports are usually prepared by the Garda investigating the case for presentation to the Court.

While the Gardai will be sensitive to the needs of all victims, a victim of a sexual offence can be particularly traumatised and special sensitivity is required.

In relation to cases of alleged rape/sexual assault, if you are a woman, you should as far as practicable be interviewed by a female Garda. The Gardai should always try to arrange for you to see a female doctor if this is your wish.

The Garda Manual on crime investigation techniques contains instructions relating to investigation of physical and sexual crimes against women. The Garda have also prepared a leaflet entitled "Violence Against Women" for the information of victims of sexual assaults.

The Gardai have established a Special Unit in the Dublin Metropolitan Area Headquarters, Harcourt Street, Dublin 2 which focuses on violent and sexual offences against women and children. (Domestic Violence and Sexual Assault Investigation Unit).

The Unit works in close contact with the Garda Community Relations Section and liaises with organisations, both statutory and voluntary, which deal with violent or sexual crime against women and children.

The aims of this Unit are:

- to oversee the investigation of cases of domestic violence, sexual abuse involving children and cases of rape and sexual assault;
- to assist in the investigation of particularly serious or complex cases of this nature;
- to oversee the investigative relationship between Garda Siochana and the Child Abuse Clinics and Sexual Assault Clinics;
- to ensure co-operation between statutory and voluntary agencies working in these areas;
- to develop, through training programmes, a body of investigative skills in the Force.

Sexual assault forensic examination kits are available in Garda stations for use in the taking of samples for forensic examination. The taking of samples from you, particularly intimate samples, is performed by a doctor.

In certain categories of offences, such as sexual offences, special arrangements are made to notify the Gardai about an imminent release from prison of an offender so that the Gardai can notify the victim and make whatever policing arrangements the Gardai consider necessary and appropriate.

Additionally, if you are a victim of sexual offences, the Department of Justice will respond sympathetically to your request for firm indications of release dates from prison for the offender involved.

Special report

The Minister for Justice provided funding last year to the National Women's Council of Ireland for a Report on Legal and Judicial Process for Victims of Sexual and Other Crimes of Violence against Women and Children. This report contains recommendations relevant to the Department of Justice and to other Departments. The Department of Justice is examining the report and follow up action relevant to the Department will be taken where appropriate.

VICTIMS OF DOMESTIC VIOLENCE

The Family Law (Protection of Spouses and Children) Act, 1981

This remains the most widely used remedy in cases of domestic violence, but several other significant legislative changes have been introduced in recent years. These legislative changes improve the protection afforded to you.

The Criminal Evidence Act, 1992

Compels spouses and, in certain circumstances, former spouses, to give evidence for the prosecution in cases of violence to the spouse.

The Domestic Violence Act, 1996

Extends the classes of persons who will be able to apply for Barring Orders, Protection Orders and Safety Orders. It also increases the range of remedies available to the Courts and provides wider powers of arrest for the Gardai in domestic violence cases.

A guide to the new law on domestic violence has been published by the Minister for Equality and Law Reform and copies of this are available in Garda Stations.

The Special Garda Unit

Victims of domestic violence have the same Garda support service as victims of sexual offences and violent crime. These services are delivered by the Domestic Violence and Sexual Assault Investigation Unit (already described in the Charter). In relation to domestic violence matters, the Unit's functions include overseeing and assisting in the investigation of offences and ensuring co-ordination of the various agencies involved in this area.

Pro-arrest policy

In 1994, the Garda Commissioner issued a pro-arrest policy document on the procedures to be followed by the Gardai in incidents of domestic violence. The primary role of the Gardai in such circumstances is one of protection of the victims of domestic violence through law enforcement. The policy document sets out the manner in which investigations should be conducted and reported.

Specially designated Garda Inspector

Outside the Dublin Metropolitan Area, the Garda authorities have designated an Inspector in each Garda Division to have overall responsibility for dealing with domestic violence cases and to ensure a uniform and consistent approach. This plan of action is the subject of ongoing review by the Garda authorities.

TOURIST VICTIMS

Evidence

Where it would not be reasonably practicable for you to attend the trial, you can give evidence by way of statement on oath before a District Court Judge, prior to your departure. The trial of the offender can then proceed without you having to give oral testimony at the trial. (Criminal Evidence Act, 1992)

Special Tourist Victim Support Service

The Tourist Victim Support Service offers, on referral by the Garda, emotional and practical support to tourists who have been the victims of crime while visiting this country.

Plans are afoot at present to extend the service to further provincial locations as the need arises. Office accommodation is provided for the Tourist Victim Support Service, in Harcourt Square, the Dublin Metropolitan Area Headquarters of the Garda Siochana.

ELDERLY VICTIMS

The Government regard the problem of attacks on you as a matter deserving the highest priority. For this reason, the Garda' will continue to take all possible steps to minimise such attacks including taking special measures to deal with certain cases.

The Minister for Justice considers that schemes such as Community Alert and Neighbourhood Watch are especially important in safeguarding your life and property and the Department of Justice supports these organisations in the invaluable work which they do.

In 1996, the Minister for Social Welfare established a Task Force on security for the elderly in order to make recommendations as to how your security needs could be addressed. Following receipt of the Task Force's Report, the Government approved a package of measures designed to improve security for you.

CHILD VICTIMS

The Criminal Evidence Act, 1992 compels spouses and, in certain circumstances, former spouses, to give evidence for the prosecution in cases of physical or sexual abuse of children.

Provisions in the 1908 Children Act dealing with the protection of children from abuse by the persons in whose care, control or charge they are, are being re-enacted and updated in the Children Bill, 1996. These protections include protection from being the victim of a sexual offence, from being used in child pornography, from cruelty or neglect and from being sent out to beg.

Under the Bill, mere possession of child pornography, which can lead to child sexual abuse, will become an offence.

Where a child becomes a victim of crime, he/she should be encouraged to contact Childline.

The services cannot begin to operate until you make the crime known. Use the Garda Freephone confidential service if you wish.

The investigating Garda will keep a record of all such incidents and in the Dublin Metropolitan Area such incidents will be recorded on computer. The question of whether such reports would be admitted in evidence in the event of a charge arising from a subsequent incident would be a matter for the Court. An investigation will take place when a report of an incident is followed up by a formal complaint to the Gardai.

Some victims may be worried that they will suffer further attacks or retaliation. Tell the Gardai about your anxiety/concerns. They will take careful note of any such fears and take whatever action is appropriate. This could include telling the Director of Public Prosecutions about your fears in order that any danger to you can be reported to the Court when it comes to consider bail for the accused.

You should report to the Gardai any conduct on the part of the accused that might justify an application to revoke his/her bail.

Governors of Prisons and Places of Detention will ensure, insofar as it is practicable to do so, that offenders will not intimidate victims/witnesses and/or their families by letters or messages relayed from prison or given to visitors for delivery.

If you feel that you will personally be at risk from an offender after release from prison, you should contact the Gardai and/or the Prisons Division of the Department of Justice. Careful note is made by the Prison authorities and the Department of Justice of any report they receive in this regard.

The Irish Association for Victim Support has set up a Victim/Witness Programme, which is funded by the

Department of Justice. This service is available in the Central Criminal Court, the Circuit Criminal Court and District Court as well as Family Law Courts in the Dublin area. At present, if requested by victims/witnesses, this service is also available outside Dublin and plans are afoot to expand the service to Circuit Court venues countrywide.

Special booklets aimed at helping young witnesses and their parents/guardians to cope with court attendances were published by the Minister for Justice last year and these are now available in courthouses countrywide.

Department of Justice, 72/76 St Stephen's Green, Dublin 2. Phone: 01-602 8202 (Prisons Division 01-602 8289)

The National Office of Victim Support, 29/30 Dame Street, Dublin 2. Phone: 01-679 8673 (International: +353-1-679 8673)

Domestic Violence and Sexual Assault Unit of An Garda Siochana, Harcourt Square, Dublin 2 Phone: 01-475 5555

Criminal Injuries Compensation Tribunal, 13 Lower Hatch Street, Dublin 2. Phone: 01-661 0604

Garda Confidential Telephone 1800 666 111

Childline 1800 666 666

Dublin Rape Crisis Centre 1800 778 888

Victim Support
National 24 hour Helpline and Monitoring Centre for those at risk in the community. Phone: 054-76222. (International: +353-54-76222)

Tourist Victim Support
Phone: 01-478 5295 (International: +353-1-478 5295)

Victim/Witness Programme
Phone: 01-873 3335 (International: +353-1-873 3335)

- Details of emergency services, Rape Crisis Centres, Women's Refuges etc.,
- Leaflet on "Violence Against Women" for the information of victims of sexual assaults.
- A guide to the new law on domestic violence published by the Minister for Equality and Law Reform
- Special booklets on court attendance by young witness and their parents/guardians.

Resource Organisation

For More Information Contact:
Department of Justice, Equality and Law Reform
72-76, St. Stephens Green, Dublin 2, Ireland.
Tel: +353 - 1 - 6028202
FAX: +353 - 1 - 6615461
Internet: info@justice.irlgov.ie

Selected Sources

1. The Charter for Victims of Crime. Department of Justice publication.

9. PAMPHLET ON INFORMATION ON YOUR RIGHTS ENTITLED "ASSAULT: VIOLENCE AGAINST WOMEN IN RELATIONSHIPS" PRODUCED BY THE JUSTICE INSTITUTE OF BRITISH COLUMBIA AND LEGAL SERVICES SOCIETY OF BRITISH COLUMBIA (CANADA)

This publication explains the law in general. It is not intended to give legal advice on particular problems. The pamphlet notes that because each person's case is different, the individual may need to get legal help.

There are many forms of abuse and assault in intimate relationships, including men being assaulted by women, and assault in gay male or lesbian relationships. This pamphlet, however, focuses on the most prevalent form of abuse and assault in married or heterosexual common-law relationships: violence against women.

This pamphlet was developed by the Justice Institute of British Columbia and the Legal Services Society in 1993 and recently revised in 1995 to reflect the Criminal Law Amendment Act, S.C. 1994, Chapter 44. The table of contents include: Who this pamphlet is for; What this pamphlet is about; What is an advocate or victim - service worker?; What is violence in a relationship?; Calling the police; Where you can go to be safe; How to get legal help; Your home; What about the children?; What you can do about money; and Immigrant women and violence; The court process; What else you can do; What if you want to end the relationship?; Who can help

Extract from the Pamphlet: "Assault: Violence Against Women in Relationships"

Who this pamphlet is for

This pamphlet is for women who are being abused, assaulted, or harassed by their husbands, boyfriends, or ex-partners. The abuse may continue or get worse after you and your partner split up. The information in this pamphlet is also for you if you are being abused or assaulted by an ex-partner.

What this pamphlet is about

This pamphlet explains:

- what violence in a relationship is,
- what you can do if your husband, boyfriend, or ex-partner has assaulted you or threatened to assault you or is criminally harassing you,
- what the police do when they are called,
- what the court process is,
- how to get a peace bond or a restraining order,
- what to think about if you choose to end your relationship, and
- who can help with emotional support and legal advice.

Assault is against the law; it is a crime. In Canada, on average, two women are killed by their partners every week.

A recent survey on violence against women conducted by Statistics Canada indicates that 2 5 % of all women have experienced violence at the hands of a husband, boyfriend, or ex-partner. One in six women who are currently married reported violence by their husbands. One half of the women who had been married before reported violence by their ex-husband.

Another study showed that there may be as many as 3 5 violent episodes before a woman will call the police.

Women with disabilities are particularly vulnerable to violence in their relationships with men. Often a woman with a disability depends on her husband or boyfriend to take care of her physical needs. Even if she calls the police, the transition house and other services may not be accessible to her.

Women of colour who are assaulted and abused by the men they are involved with are often isolated by language and cultural differences as well as by racism. Many immigrant women are afraid of being deported and may therefore hesitate to contact an official agency. (See page 14 for more about immigrant women and violence .)

What is an advocate or victim service worker?

An advocate is a person who can help you find out what your rights are, keep you company in court, and help you find resources in your community.

An advocate can be a transition house worker, a friend, a relative, or someone working at your local women's centre or immigrant service agency.

A victim service worker can tell you about what you will have to do in court. Victim service workers are connected with the police, the Crown counsel (the lawyer for the government), or local community agencies.

You may want to have an advocate or victim service worker with you when you are dealing with the police and the courts.

What is violence in a relationship?

Assault

- If someone hits you or physically
- hurts you, that is an assault.
- If someone threatens to hit you or physically hurt you, and you believe that he can do it, that is assault.
- If someone sexually abuses you, that is assault.

Criminal harassment (stalking)

- If someone contacts you over and over again (for example, at work or at home in the middle of the night) and this causes you to fear for your safety, that is criminal harassment.
- If someone repeatedly follows you or watches you wherever you are (for example, parks outside your house), and you are afraid that he will harm you, that is criminal harassment.
- If someone does anything else that is threatening that makes you afraid that he will harm you, that is criminal harassment.

Other kinds of violence

- If your husband or boyfriend threatens to kill your pet, or harm the children or your property, that is a crime.

Call the police right away if any of the things above are happening to you.

If your husband or boyfriend is controlling all the money in the household and not letting you have any, that is financial exploitation. Talk to an advocate about it.

Calling the police

If your husband, boyfriend, or ex-partner has hit you or is threatening or harassing you, call the police. The emergency telephone number is on the first page of the phone book. It is 911 in Vancouver and in many other parts of B.C. Be sure to check the number for your community.

When the police answer, give your name and address. The person who answers the phone needs to know what is happening. Try to speak slowly and clearly.

Tell the police:

- that you are in danger,
- what the man is doing or has done,
- if he has a weapon and what it is, · if he has been violent before,
- if you have children with you,
- if either you or the children have been hurt, and
- if you already have a peace bond or restraining order.

What happens when the police come

When the police come to your house, they will talk to you to find out what has happened and why you are concerned about what your husband, boyfriend, or ex-partner is doing. Tell them if you are afraid for your safety and you think he should be arrested.

The police will do one of these three things:

1. arrest him and hold him in custody for a bail hearing, or

2. arrest him and release him without a bail hearing, or
3. release him without arresting him.

If the police find that the man has assaulted or threatened you, or that he might do it again, they will probably arrest him. They can do this even if you don't ask them to.

If the man who assaulted or threatened you leaves before the police arrive, the police can still arrest him if they can find him. If you know where he is, tell the police.

If he returns, you can ask the police to come back.

Arrest

If the police arrest your husband, boyfriend, or ex-partner, one of these three things can happen:

1. He will he kept in jail overnight.
2. He will be released, but the police will tell him that there are certain things he cannot do, for example, go anywhere near you or your children.
3. He will appear in front of a judge or a justice of the peace for a bail hearing before he is released.

The bail hearing

At the bail hearing, the judge will say what your husband, boyfriend, or ex-partner has to do to be released on bail. These are called the "conditions" of bail.

The judge can order your husband, boyfriend, or ex-partner to stay away from your home or where you work and not to contact you either directly or indirectly. The judge does this by making a "no-contact order."

If you want a no-contact order, you must tell the investigating police officer. The police will want to know about other times in your relationship that your husband, boyfriend, or ex-partner has been violent. The police will stress the need for the no-contact order in their report to the Crown counsel.

Ask the victim service worker or the Crown counsel's office to tell you what the conditions of bail are.

If the man does not do what the conditions of bail or the order say, he can be arrested again and charged with "breach" of bail or an order. This is in addition to the first charge of assault.

The investigating police officer will give you a card with her or his name and phone number and your file number on it. If your husband, boyfriend, or ex-partner is in breach of any order, phone the police.

If you want to find out what is happening with your case, phone the victim service worker.

The police prepare a report

Even if the police do not arrest your husband, boyfriend, or ex-partner, they are required to investigate your case and prepare a report. They will do this even if you have not been hurt or do not want to be a witness. They will ask you questions about what happened.

The police then give this report to the Crown counsel and she or he decides whether or not to charge the man.

If the police interview you again later, you can bring an advocate or victim service worker with you.

What if you don't call the police immediately?

It's a good idea to write down what happened and report the assault as soon as possible so that you remember the details. This makes it easier for the police to get the evidence they need.

Even if you don't call the police immediately, you still have the right to get help. Call the police or go in person to the police station to report the assault. Take an advocate or a victim service worker with you if you can.

Where you can go to be safe

If there is a transition house or safe home in your area, you can ask the police to take you there. These places are free. Or the police can help you get to friends, relatives, or a motel (the Ministry of Social Services may pay for this).

If you have been hurt, get medical help. Most hospital emergency departments will be able to help you and also collect medical evidence of the assault.

How to get legal help
If you cannot afford a lawyer, go to a legal aid office to apply for legal aid. See who can help at the end of this booklet. Tell the person you talk to that it is an emergency.

If you do not qualify for legal aid, call Lawyer Referral. Look for the number in the white pages or in the Yellow Pages at the beginning of "Lawyers." Lawyer Referral will give you the name of a lawyer in your community who can help. You can talk to this lawyer for one-half hour for $10. If you want to hire this lawyer for more help, ask how much she or he will charge you.

Your home
If you asked for it, the judge may have put conditions on your husband, boyfriend, or ex-partner at the bail hearing. One of the conditions might be that he stay away from your home.

Later, you may be able to get an order from a judge saying that you have the legal right to stay in the home with your children. This is called an exclusive occupancy order. You need a lawyer to go to court with you to get this order.

What about the children?
Take the children with you when you leave your home. If you can't take them, come back to get them as soon as you can.

Be careful about your own safety. Ask a police officer and an advocate or victim service worker to come with you. Phone the police in advance to set up a time. The police can make sure that you are safe, but they cannot force the man to give you the children if you don't have a court order.

If he refuses to let you take the children or he has a custody order, get legal advice right away.

If you are afraid that your children are in danger, call the nearest office of the Ministry of Social Services. Or call the Helpline for Children by dialling 0 and asking for Zenith 1234.

What you can do about money
If you have a place to stay for now, but you don't have enough money, contact the Ministry of Social Services (welfare) and apply for emergency assistance. Ask an advocate to go with you.

If you decide to separate from your partner and you have no money, you can apply for welfare. It is important to get off emergency assistance and start receiving income assistance as soon as possible. It may take a long time for your case to go through the courts, and you cannot get other benefits when you are on emergency assistance.

You can apply to court to get financial support (maintenance) from your husband, boyfriend, or ex-partner. Contact legal aid to see if they can help you.

If you have money in a joint bank account, take your money out right away. If you have credit cards in both your names, contact the credit card company to cancel them or get your name removed. If you own a house, car, or other property together, get legal advice.

Immigrant women and violence
If you are an immigrant woman, these are some of the things that you should know:
- If you have permanent residence status, you will not be deported if you leave a relationship, even if your husband is sponsoring you.
- If you do not have permanent residence status, get legal help right away. You will not be deported automatically.
- If you are sponsored by your husband and you leave him, you can get welfare.

- If you are a refugee claimant, get legal help right away. Canadian immigration guidelines offer some protection to women who are being assaulted by their spouses.
- If you are sponsoring your husband and he assaults you, get legal help. You may be able to withdraw your sponsorship of your husband.

If English is not your first language, you may be able to find a lawyer who speaks your language. Ask your local multicultural or immigrant service agency for the names of lawyers and interpreters.

The court process

Introduction

The court process is difficult for any woman who has been assaulted. Your case may move slowly through the system. At times you may feel as if you are the one who is being charged with an offence.

It helps to have an advocate or victim service worker with you at all times when you are going through the court process. This includes any interviews that you have with the police or Crown counsel as well as court hearings and the trial itself.

The Crown counsel

The Crown counsel is the lawyer for the government. After the police have prepared their report, the Crown counsel decides if there is enough evidence to charge the man who assaulted you.

The Crown counsel makes this decision by reading the police report and deciding if it is likely that the judge will find your husband, boyfriend, or ex-partner guilty.

If the Crown decides that the case will go ahead, you are an important witness. The Crown counsel will call you and explain what will happen in court. If you need an interpreter, be sure to tell the Crown counsel.

The Crown counsel will make every effort to talk to you well in advance of the trial; however, if you do not hear from him or her, call to find out about the progress of your case.

In some areas of the province, the Crown counsel at your trial might not be the same one who first interviewed you.

You will be given a paper called a subpoena. It tells you that you have to come to court and when the trial is going to happen. The subpoena will usually be delivered to you in person, but it may come in the mail.

If you decide that you do not want to be a witness, the case may still go ahead, especially if there are other witnesses or other evidence that the assault took place. However, the judge may tell you to testify. Explain to the judge why you do not want to be a witness.

Victim impact statements

The Crown counsel may ask you if you want to fill out a victim impact statement. In this statement, you can explain what effect the assault or harassment has had on you and your children. The Crown counsel uses this statement when she or he tells the judge what kind of sentence the man should get if he is convicted.

Sometimes the Crown counsel will interview you and fill out this statement for you. Sometimes they will mail it to you for you to fill out. If the Crown counsel does not talk to you about a victim impact statement, ask about it yourself.

The first appearance

The man who assaulted you (called "the accused") will be ordered to appear in court in front of a judge. At this "first appearance," he will be asked if he pleads guilty or not guilty and whether or not he intends to get a lawyer.

If he says he is guilty, there will not be a trial. The judge decides then what will happen to him (his sentence).

If he says he is not guilty, a trial will be held at a later date.

You do not usually have to be in court or say anything at a first appearance. The Crown counsel will notify you if you need to be present. You can come to the hearing if you want to.

If the accused has been in jail until the first appearance, the judge may now release him on bail until the trial starts. Usually these bail conditions will include the condition that he stay away from the family home and that he not contact you. This means that he cannot even telephone you. You need to know about these conditions. Ask the victim service worker who you should call to find out what conditions have been set.

The trial

You may want to visit some other trials to see what happens at a trial. You can have an advocate, victim service worker, or anyone else you want go to court with you for the assault trial.

The Crown will present its case first.

- The Crown counsel will present evidence to show that the offence happened. You will be called as an important witness. If you do not want to give your address out loud in court, be sure to tell the Crown counsel this before the trial begins.
- The Crown counsel may call other witnesses, such as the police, friends or neighbours, and perhaps your doctor. Your children will not be asked to be witnesses in this kind of case unless it is absolutely necessary.
- If there are pieces of evidence, such as torn clothing, photographs of your injuries, a weapon, or medical records, the Crown counsel may present them as part of the case.
- The Crown's witnesses, including you, will be questioned (cross-examined) by the lawyer who is defending the accused.

The defence lawyer will then present the case for the accused. The process is the same as it was for the Crown counsel. Often the accused will be called as a witness, but not always.

The judge will then make a decision based on the facts presented by both sides.

Not guilty

If the accused is found not guilty, this does not mean that the judge didn't believe you. Criminal trials follow strict rules of evidence, and the law says that the accused has to be proven guilty "beyond a reasonable doubt."

In rare cases, the Crown counsel will decide to appeal a judge's decision. If this happens, you will not be asked to appear in court again. Appeal judges make their decisions based on all the written notes taken at the original trial.

Guilty

If the accused is found guilty, he will be sentenced. This means that the judge will decide what should happen to him.

Before deciding on a sentence, the judge may ask for a pre-sentence report. The probation officer who prepares this report will interview you. This is so your opinion about the kind of sentence the accused should receive can be included in the report. Be clear with the probation officer about any concerns you have about the safety of you and your children.

The probation officer should have seen your victim impact statement if you completed one. If you wrote a victim impact statement right after the assault happened, you may want to update the information in it.

If your husband, boyfriend, or ex-partner is found guilty, possible sentences include:

Conditional discharge: If he follows certain conditions (for example, staying away from you and the children, getting counselling) for a certain period of time, he will not have a criminal record.

Suspended sentence and probation: For a set period of time, he must follow all the conditions set by the judge in a probation order. Usually one of these conditions is that he report to a probation officer. The probation officer must tell you what conditions are in the order.

If he does not follow the conditions of the probation order, he can be arrested and sentenced for that and for the original offence.

Jail: If the assault was very severe or he has committed criminal offences before, he might be sent to jail. He could then lose his job; however, this would be unusual. He may be able to serve his time on weekends.

He won't necessarily lose his job just because he's been charged and goes to trial.

What else you can do

A peace bond (recognizance)

A peace bond is an order a judge makes in court. It tells your husband, boyfriend, or ex-partner that he must "be of good behaviour and keep the peace." This means that he must not harass you or threaten you. The peace bond can contain a no-contact order.

To get a peace bond, you do not have to prove that your partner or ex-partner has assaulted you. You only have to show that you have a reasonable fear that he will injure you or a member of your family or damage your property. Yon do not have to be living together to get a peace bond.

Anyone who knows about the situation you are in (a police officer or an advocate, for example) can apply for a peace bond on your behalf. But it often works best if you apply for it yourself.

To apply for the peace bond, you have to write a formal written complaint (this is called an "information") and take it to a justice of the peace or a judge. In the information, you need to state that you fear that your husband, boyfriend, or ex-partner will injure you or a member of your family or that he will attempt to damage your property.

After the information has been written, you will have to go in front of a judge or a justice of the peace and swear that the information is correct. After you have "sworn the information," the judge or justice of the peace can issue a warrant for his arrest or a summons for a hearing.

If your husband, boyfriend, or ex-partner is arrested, a bail hearing will be held. The conditions for bail will be set, and later there will be a hearing. The hearing is very much like a trial (see page 19). The Crown counsel will call you as a witness and ask why you want a peace bond.

At the end of the hearing, the judge will decide whether or not to issue a peace bond and what the conditions will be.

Be sure to get a copy of the peace bond and keep it with you at all times.

If the man who has threatened you breaks the peace bond, call the police right away. Tell them that you have a peace bond.

A restraining order

A restraining order is an order a judge makes in civil court. It tells the man who assaulted you that he cannot harass or threaten you.

If you want to get a restraining order, you need a lawyer. If you cannot afford a lawyer, go to the nearest legal aid office to apply for legal aid. Tell the person you talk to that it is an emergency. Make sure that the lawyer includes in the order a statement saying that it can be enforced by a police or RCMP officer.

Keep a copy of the restraining order with you at all times. If you call the police, tell them that you have a restraining order.

There are several kinds of restraining orders. Usually you get a restraining order when you have something else also happening in civil court (for example, if you are applying for custody or maintenance).

Protection Order Registry

In the fall, 1995, a Protection Order Registry will be set up to keep a central record of all restraining orders in B.C. All new restraining orders will be in this registry. This will make it easier for police to find and enforce your restraining order. If you have a restraining order that was made before the new registry was set up, ask the court that made the order to send it to the registry. You have to make a special request because old orders will not automatically be registered. Later, this same procedure will apply to peace bonds also. Make sure the police check the registry for your order.

Criminal injury compensation

You can apply for criminal injury compensation. This is money that the government gives you if you have been injured as a result of a crime. It covers such things as lost wages, pain and suffering, and counselling. Your husband, boyfriend, or ex-partner does not have to have been charged, but there must be a police report.

You can get an application form from the Workers' Compensation Board, from the police, or from a victim service worker or advocate.

Suing your husband, boyfriend, or ex-partner

You can sue your husband, boyfriend, or ex-partner in civil court for damages. Damages means the money that a judge orders him to pay for the pain, suffering, and loss of time at work that he has caused you.

If you want to do this, talk to a lawyer right away; there are time limitations. Contact Lawyer Referral to find a lawyer in your area.

What if you want to end the relationship?

If you want to end your relationship, talk to a lawyer or a family court counsellor. If there has been violence in the relationship, mediation is rarely helpful. Tell the lawyer or counsellor if you do not want mediation services.

If you cannot afford a lawyer, apply for legal aid. The following sections are about some of the things to discuss with a lawyer.

Maintenance and support

Maintenance and support are the legal terms for money from your husband, boyfriend, or ex-partner. Both parents have a legal duty to care for their children. Your children's father has to give you money to help support the children if they are living with you, whether or not he pays maintenance to you. A program in British Columbia called the Family Maintenance Enforcement Program may be able to help you collect maintenance from your spouse. Call them toll-free at 1-800-663 -7616.

Custody

Custody is a parent's legal right to take care of the children. If you leave your home, take the children with you to protect them and to improve your chances of getting custody. Apply for a temporary custody order of your children fight away--even if you can't take the children with you. Later, when you go to court, the judge will decide who gets custody based on what is "in the best interest of the children."

Access

Access is the legal term for the children's right to see the parent who does not have custody. A judge may decide that their father can see the children, even if he has assaulted you.

Sometimes the court will order supervised access, which means that he can only see the children when someone else is there. You can say whether or not you accept the person chosen to supervise the access.

If your husband, boyfriend, or ex-partner has abused the children or has threatened to abuse them, tell this right away to your lawyer, a transition house worker, a family court counsellor, or the Ministry of Social Services.

Separation agreement

A separation agreement is a legal document that says what you and your spouse have agreed to about such things as maintenance, custody and access, and dividing up your property.

Divorce

If you are married and want a divorce, talk to a lawyer. You have a right to at least half of the family assets, such as the car, house, furniture, and other things that the family used together. For more information on the above, see the Legal Services Society booklet If Our Marriage Breaks Up.

Who can help

- Aboriginal justice workers

- Crisis centres
- Family court counsellors (look for Family Court in the blue pages of the phone book under Government of B.C. -- Court Services [or Courts])
- Immigrant service agencies
- Lawyer Referral (look in the white pages or in the Yellow Pages at the beginning of "Lawyers")
- Legal Services Society (look in the white pages under "Legal Aid-Legal Services Society" or in the Yellow Pages under "Lawyers -- Legal Aid")
- Multicultural agencies
- Native friendship centres
- Women's centres
- Transition houses
- Tribal councils
- Victims Information Line (call 1-800-563-0808)

See the first page of the phone book for crisis numbers in your community. Check near the front of the phone book for a section called "Community Services," which lists some of the other services above.

If you have trouble finding these numbers, call or visit your local library, for help.

Resource Organisation
Distribution Clerk
Legal Services Society
Publishing Program
#1500 - 1140 West Pender Street
Vancouver, B.C. V6E 4G1
Canada
Fax: (1) (604) 660-4420

Selected Sources
1. "*Assault: Violence Against Women in Relationships*". Justice Institute of British Columbia and Legal Services Society of British Columbia.

10. VICTIMS OF CRIME ACT IN BRITISH COLUMBIA (CANADA)

The Victims of Crime Act, one of the most extensive pieces of victims rights legislation in Canada, was passed by the legislature in June 1995. The Victims of Crime Act recognizes the role of victims in the criminal justice system and makes the justice system more accessible and understandable to victims of crime. It also attempts to overcome the Fact that many victims feel re-victimized by the criminal justice system. The core aspects of this legislation are the provision of extensive information rights to victims about the status of their case from investigation through prosecution, and access to information about the charged person or offender. The following is a summary from the legislation.

Synopsis.

Description. Under the Victim of Crime Act in British Columbia, a victim is someone who has suffered physical or mental injury, economic loss or significant emotional trauma directly related to the offence, or is a close family member of a victim. The family members entitled to services or rights under the Act include the parents, children or spouse of the victim.

The legislation also provides for:

- government funded legal representation, where the victim meets a means test, to protect the victim's privacy interests in a criminal trial;
- the right for victims to have the impact of the offence brought to the attention of the court;
- a statement of government's goals which set the future direction of victim services; and

- a victim surcharge levy which will be applied to all provincial fines, such as those imposed on speeding and environmental offences. The amount of the surcharge will be set by regulation.

The Victims of Crime Act will be proclaimed when the ministries responsible for fine collection have set up administrative and computer systems to handle the victim surcharge levy, and the Ministry of Attorney General has developed a notification policy for the information to be provided under the Act.

Resource Person/Organization for Further Information
Ministry of Attorney General of British Columbia
Victoria, British Columbia, Canada V8W 1X4

11. VICTIM IMPACT STATEMENT FORMS: THE MINISTRY OF ATTORNEY GENERAL BRITISH COLUMBIA (CANADA)

The Ministry of Attorney General is revising the current Victim Impact Statement (VIS) form to make it more "user friendly" and easier to complete. In addition, a new "Victim Impact Statement Guide" will accompany all VIS forms explaining their purpose and how to complete them. Crown counsel will also review their policy on Victim Impact Statements to ensure all victims in court cases are given the opportunity to complete a VIS and to address the timing of disclosure of completed VISs to defence
counsel.

12. CRIMINAL INJURY COMPENSATION ACT AMENDMENTS BRITISH COLUMBIA 10-(A) – 29 (CANADA)

In 1995, the government broadened compensation to victims of crime under the Criminal Injury Compensation Act. The Criminal Injury Compensation Program provides assistance, such as grief counselling, lost wages, and other expenses, to individuals who are criminally injured. Amendments to the Act and its regulations provide three new groups with benefits:

- parents and families of murdered victims;
- those who have suffered criminal injury while on the job; and
- victims of stalking and uttering threats.

The following was summarized from the Amendments to the Act.

The first amendment recognizes that parents and families of murdered victims are themselves victims of crime, and that parents in particular suffer a tremendous loss when their child is murdered. Parents of murdered victims were not previously eligible for benefits.

The second amendment provides pain and suffering awards to individuals criminally injured on the job, adding to other compensation benefits already provided under the Workers Compensation Act or the Government Employees Compensation Act of Canada. Both the first and second amendments to the Act were brought into force in June 1995.

The third amendment changes the regulation, or Schedule to the Act, which lists crimes covered under the Act. Two new offences under the Criminal Code, Criminal Harassment (Stalking) and Uttering Threats, were added to the Schedule in March 1995.

13. PROCEDURAL GUIDELINES TO SOCIAL WELFARE AGENCIES AND APPROPRIATE NGOS IN ASSISTING VICTIMS OF RAPE AND SEXUAL OFFENCES (SOUTH AFRICA)

The National Guidelines for Prosecutors in Sexual Offence Cases is part of a set of guidelines developed by the South African Task Team which includes guidelines to Health Care personnel, guidelines to social welfare agencies and appropriate NGO’s and guidelines to correctional services.

These procedural guidelines deal with the social welfare agency in South Africa where victims may report a rape or sexual offence. These guidelines are intended for social welfare workers in employment of government, but it is noted that they could also be useful for other agencies working in this field. It details the procedures to follow upon receiving a report, immediate actions and long term actions. It also lists the information that should be imparted to the victim and what assistance should be given to the victim before and during court proceedings. The following was obtained in the National Guidelines for Prosecutors in Sexual Offence Cases.

Synopsis.

Description. These procedural guidelines deal with the social welfare agency in South Africa where victims may report a rape or sexual offence. These guidelines are intended for social welfare workers in employment of government, but it is noted that they could also be useful for other agencies working in this field. It details the procedures to follow upon receiving a report, immediate actions and long term actions. It also lists the information that should be imparted to the victim and what assistance should be given to the victim before and during court proceedings.

Once a rape or sexual offence case is first reported at a social welfare agency, it marks the beginning of the agency's involvement with, a serious and delicate problem regarding human rights. The initial meeting will set the stage for the further process of the case and the manner in which the victim will perceive the service and respond. These guidelines are intended for social welfare workers in employment of government, but could also useful for other agencies working in this field. Allegations of rape and sexual offences should be assumed to be in good faith. Rape must be seen as an act of violence against women and children. In order to render professional social work assistance to victims of rape and sexual offences, it is desirable that social workers receive appropriate training in trauma counselling. This includes proficiency in medico-legal knowledge, skills and knowledge in dealing with sexually abused victims and confidence to give evidence competently in court. A social worker does not work alone. She or he is a part of a discipline that involves the legal, medical and related professions. Victims who have been sexually assaulted a long time ago (e.g. adults who are remembering or acknowledging abuse which occurred when they were children) have very special needs and separate guidelines should be developed for assisting them.

Procedures

In order for social work to be effective, the following procedures must be followed should a case of rape or another sexual offence be reported:

The case must be dealt with at the welfare agency where the matter was reported

i) A case file must be opened.

ii) Should the victim reside in another town or province, then the file must be forwarded to that specific welfare office for follow-up. The office which first handled the case, must keep in contact with the other agency to which the file has been forwarded, until the case has been dealt with satisfactorily.

iii) It should be noted that in terms of section 42 of the Child Care Act, 1983, social workers are obliged to report any case of physical, psychological or sexual abuse on children which comes to their attention.

When assessing and counselling the victim, the following procedures must be managed in a sensitive manner:

- Introduce yourself and explain your role in the investigation.
- Choose a quiet room where you can be alone with the victim.
- Obtain the personal particulars of the victim. name, address and other relevant information

If the victim wishes to lay a charge, contact the local police immediately and remain with the victim. Do not leave the victim alone.

The police officer assigned to the case will open a docket and take basic details. A detailed statement from the victim will usually only be taken by the officer once the victim has been attended to by a medical officer.

Procedures to follow when a victim reports the offence by telephone:

i) Obtain the victim's address and telephone number.
ii) Enquire whether the victim is in any danger.
iii) Enquire whether the victim requires an ambulance and if one is needed, arrange for one to be dispatched immediately to the address provided.
iv) Arrange for a police patrol vehicle to be dispatched to the address immediately, if applicable.
v) Emphasize to the victim that she or he should not bathe, wash or change clothing, as valuable evidence could be lost.

Remain on the telephone with the victim and offer your support and assurance, until police arrive.

vi) Explain to the victim the investigative procedures that will follow, refraining from explaining the trial procedures (this will be done later).

When the victim is a child, special assistance is needed:

Immediate actions

i) Interview the child first, then the parents in turn.

Under all circumstances the best interests of the child should be served.

ii) Do not act hastily to remove the child. This may imply to the child that he/she is to blame for the abuse. Removal and placement of a child should be a last resort if there is no other way to protect the child.

iii) Contact the Child Protection Unit.

iv) A family member not involved directly or indirectly in the abuse or an accountable adult should accompany the victim.

v) Offer reassurance to the child. Assure her or him that you will work with the abuser

to try to stop them from such conduct, but that at all times protection of the victim is your priority.

vi) Should the perpetrator be the father and the mother is likely to protect the child, or vice versa, assist the non-abusing parent to protect the child from further abuse.

vii) Open a case file with only the necessary information.

Longer term actions:

- Work with the parents: re-establish the mother-child relationship.
- Ensure that other children in the home are not at risk.
- Assist the abuser to be involved in effective treatment.

Information Imparted to the Victim

The following information imparted to the victim will assist to calm the victim:

i) Explain the role of the police officials.

ii) To allay victim's fears that everyone will know about the case, explain that the only relevant persons will know the exact facts and that intimate details will not be requested from the victim repeatedly.

iii) Explain that a medical examination will be necessary should the victim wish to press charges

iv) Explain to the victim that the victim's underwear may be needed by the police for forensic testing. Advise the victim to take clean clothing for use after the examination by the accredited health care practitioner (AHCP).

v) Explain the function of the AHCP, namely that medical evidence must be gathered. Medical treatment after the victim sees the AHCP will be provided at a health care institution, or privately if the victim decides to bear this cost.

Role of the Social Worker

- If the victim seeks help, the social worker will eventually need to obtain intimate details from the victim. It is therefore essential to win the victim's trust during the first contact.
- Only state your name (not your rank). A victim will feel more at ease with a simple name by which she or he can call you.
- Obtain a brief description of what happened.
- Explain your role and the subsequent police procedures.
- Avoid victim blaming questions and do not pose questions that reflect a judgmental attitude.
- Offer support to the victim. Show empathy for the victim's plight.
- Assure the victim that it is not his/her fault that he/she was raped or sexually abused, that help is available for the victim.
- Allay the victim's guilt feelings.
- Allow the victim to verbalize her/his anger.
- During the time that the victim awaits the AHCP examination, assure the victim continually, as he/she still carries the evidence of the rape. Remember that the victim has not bathed or washed and this may traumatize the victim further.
- One of the fears of a victim is that he/she may contract AIDS or other sexually transmitted diseases. Advice will be offered by the AHCP. Most victims of rape/sexual offences will require counselling to enable them to deal with the traumatic event. After the medical examination, refer the victim to specialized services available in the area, for example, Rape Crisis and Life Line should your agency not offer these services.

Assistance to the Victim Before and During Court Proceedings

The following steps will ensure that the court procedures are less traumatic to the victim:

- Whenever possible, accompany the victim to court prior to the trial, to familiarise the victim with the court environment.
- Generally the victim's name will not be published in the media, even if there are reporters in court to report on the case.
- Continue to follow through on the case, keeping in touch with the responsible police officials and keep the victim informed of the progress of the case.
- Continue to counsel the victim as appropriate.

Linking with other parties in dealing with victims of rape and sexual offences

Social welfare agencies and NGOs should link up with criminal courts, prosecutors, the SAPS, Child Protection Unit and health care clinics in their region. The establishment of fora involving all role-players to exchange information and ideas and provide a coordinated service to victims, should be explored. Welfare agencies should also compile and present a directory of counselling and support services to the other parties concerned.

Implementation Details. One recommendation which emerged was the need to establish a high level intersectoral Task Team to develop uniform national guidelines for all role-players handling rape and other sexual offence cases. The Department of Justice convened such a Team which comprised personnel from the South African Police Service, the Departments of Health, Welfare and Correctional Services, representatives from different aspects of justice -prosecutors, magistrates and appellate courts - and an NGO representative from the National Network on Violence Against Women.

The Task Team met over a number of months with each Department being responsible for the draining of its own guidelines, but all members of the Team had the opportunity to comment and assess the manner in which the different guidelines worked together. The aim was to compile a set of guidelines which would facilitate the development of an integrated and holistic approach across government and the NGO sector to deal with these offences.

Complete sets of the guidelines will be forwarded to central offices of relevant Departments in the provinces and to other places where they are accessible to people working in the field of sexual violence. At ground level departmental personnel will have available the 'guidelines which apply to their daily work. (e.g. Police stations will have the police guidelines, health clinics will have the health guidelines).

The guidelines also contain an information brochure for victims which sets out in simple language the basic steps involved in the legal process. It is anticipated that victims will obtain additional information on the process and the resources available to them in their area from material prepared locally.

The present document is a first attempt at developing a cohesive framework for dealing with sexual offences. It must now be fully tested by the people who work in this area. The Department of Justice hopes that the guidelines will serve two main linked purposes:

1. To assist service providers with their work by being a practical tool
2. Thereby to improve the experiences of victims in the legal system

If these goals are achieved the result should also be an increased conviction rate and appropriate decisions being taken on bail and sentences.

These guidelines are part of a process. As we all learn from our new approach to this work, they will need to be revised and reviewed.

Cost Issues. Not noted

Evaluation. Not noted

Resource Person/Organization for Further Information
Department of Welfare
Private Bag X901

Pretoria, 0001 South Africa

Selected Sources

1. *Procedural Guidelines to Social Welfare Agencies and Appropriate NGOs in Assisting Victims of Rape and Sexual Offences.* National Policy Guidelines for Victims of Sexual Offences: Volume 3.

14. PAMPHLET: VICTIMS OF SEXUAL OFFENCE: WHAT YOU SHOULD KNOW (SOUTH AFRICA)

The following excerpt can be found in the *Victims of Sexual Offences: What You Should Know*. *(*Pamphlet) National Policy Guidelines for Victims of Sexual Offences

Synopsis.

Text from the Pamphlet: "Victims of Sexual Offence: What You Should Know"

Women and men who have been sexually assaulted often feel scared and confused and angry. They do not know where to turn for help.

This pamphlet will provide you with practical support and information about:

- reporting the assault to the police
- the medical examination by the accredited health care practitioner
- the feelings you may have after being sexually assaulted
- where to get help and support.

<u>The Police</u>

- If you report the sexual assault to the police, a police officer will need to take a statement from you. The statement may be taken as soon as you report it or after you have been medically examined by an accredited health care practitioner.
- When the police officer takes a statement from you, you will have to tell him or her exactly what happened. He or she will write down what you say. He or she will then ask you to read the statement once it is written, make any corrections and to sign it if you are satisfied. If it is not correct, you must insist that it be changed.
- You may ask a friend or family member to be with you when you give your statement, provided that that person is not a potential witness in a subsequent trial relating to your case.
- You are allowed to make a further statement at a later stage if you feel any important facts are not contained in your original statement.
- The police officer who takes your statement is usually not the same person who will investigate your case. The person who will investigate your case is called the Investigating Officer. The Investigating Officer may need a further detailed statement from you at a later stage.
- You are entitled to give your statement in your own language, but it may be translated into another language.
- You have a right to a copy of your statement. If you can't get one immediately, you can get it at a later stage.
- When you report the sexual assault to the police you will get a case number you must keep it so you can give it to the detective, should you have questions about your case.
- It is important to tell the detective if you change your address or telephone number so that he or she can contact you when necessary.
- Your Investigating Officer should inform you of any developments in the case, for example:
  - should a suspect be arrested;
  - if he is released on bail;
  - request you to attend an identification parade if so required;
  - when the trial will be; and
  - when you may be required to give evidence in court about the sexual assault.

You may telephone your Investigating Officer should you have any questions about your case.

- Your Investigating Officer will investigate the case, gathering all relevant information. Once the case goes to court, your case will be represented by a lawyer from the State, called a prosecutor. You will be able to get

information about your case from both the Investigating Officer and the prosecutor once the case has gone to court.

The following information should be recorded.
- Police Station:
- Investigating Officer:
- Telephone number:
- Case Reference number:
- Date of reporting:

Accredited Health Practitioner

- You will be medically examined by an ac credited health care practitioner who will complete a medical report, which may be used later as evidence in the court case.

- After having been sexually assaulted, you may be concerned about the following:

Pregnancy

If necessary, the accredited health care practitioner will supply you with medication to pre vent possible pregnancy (the morning after pill)

However, if you should miss your next menstrual period and you are worried that you may be pregnant as a result of the sexual assault, you must without delay do one of the following:

- visit your nearest day hospital, municipal clinic, or provincial hospital. or
- contact the accredited health care practitioner's office where you were First examined, or
- consult your private doctor, or contact your Investigating Officer.

The necessary tests will be done and if you are pregnant, you may obtain an abortion should you want one.

Sexually Transmitted Diseases

Nearly all these diseases can be successfully treated with medication.

Should you develop an abnormal discharge or vaginal irritation your doctor or clinic will supply you with treatment.

It could take up to three weeks before certain sexually transmitted diseases (ulcers) develop

The accredited health care practitioner may give you treatment to stop you from getting these diseases from the sexual assault.

AIDS/HIV

The chance of getting AIDS after one sexual assault is slight.

Unfortunately there is always a possibility of getting AIDS, especially if you have been assaulted over a long period of time. This will understandably cause a great deal of concern for you.

You must go to your doctor or clinic or ATICC for an AIDS test and counselling straight away and then again after another three months.

It is very important to know that the reason the accredited health care practitioner examines you, is to collect evidence for the court case. Procedures differ from one health care facility to another. In some places the accredited health care practitioner may possibly not give you any treatment for pregnancy or sexually transmitted diseases. You must therefore go as soon as possible to a clinic or a hospital or your own doctor so that they can treat you.

The following information should be recorded:
- Health care facility
- Accredited health care practitioner
- Date of examination

- Telephone number

Possible Feelings After Being Raped

- It is important to remember that there is always someone who can help you, like a friend, a family member, a rape counsellor, church or spiritual leader, psychologist or employer.
- There are a number of things you may feel after being sexually assaulted. Always remember that whatever you feel is understandable and that being sexually assaulted is never your fault. Every woman responds to sexual assault in a different way, depending on her own circumstances.
  - You may feel dirty and want to wash yourself all of the time.
  - You may feel scared and afraid to go out after you have been sexually assaulted.
  - You may begin to abuse alcohol or drugs to help to forget the assault.
  - You may blame yourself for being sexually assaulted and therefore feel guilty
    - this is a normal reaction to sexual assault
    - remember that it is not your fault.
  - You may want to continue your life as normal, and want to forget the sexual assault as soon as possible.
  - You may experience nightmares, problems eating or sleeping. You may cry a lot and struggle with problems in personal relationships.

N.B: These are not unusual or unnatural responses but rather a collection of things that many people who have been sexually assaulted have experienced.

People and Organizations Who Can Help You

- Social workers at your nearest clinic, hospital or municipality
- Your doctor
- School guidance teacher or psychologist
- Your church or spiritual leader
- Private psychologist
- Rape counsellor

Cost Issues. Not noted

Evaluation. Not noted

Resource Person/Organization for Further Information
Department of Welfare
Private Bag X901
Pretoria, 0001 South Africa

Selected Sources

1. *Victims of Sexual Offences: What You Should Know*. *(*Pamphlet) National Policy Guidelines for Victims of Sexual Offences

V. Victim Support and Assistance

(B) FORMAL COMPLAINTS

Section 10(b) of the Model Strategies urges Member States, as appropriate to encourage and assist women subjected to violence in lodging and following through on formal complaints.

Examples of Promising Practices Relating to Formal Complaints

TO BE ADDED

V. Victim Support and Assistance

(C) REDRESS FOR HARM

Section 10(c) of the Model Strategies urges Member States, as appropriate, to ensure that women subjected to violence receive, through formal and informal procedures, prompt and fair redress for the harm that they have suffered, including the right to seek restitution or compensation from the offenders or the State.

Examples of Promising Practices Relating to Redress for Harm:

1. RESTITUTION TO VICTIMS OF OFFENCES (CANADA) .....

2. FAJAR HARAPAN, THE TREATMENT OF OFFENDER AND VICTIM OF CRIME FOUNDATION (INDONESIA) - *TO BE ADDED*

1. RESTITUTION TO VICTIMS OF OFFENCES (CANADA)

Sections 738 (1) and (2) of the Canadian Criminal Code allows for restitution to victims of offences for expenses incurred by a spouse in leaving the abusers home to avoid injury. The following text is from the Canadian Criminal Code.

Synopsis.

Text.

738. (1) Where an offender is convicted or discharged under section 730 of an offence, the court imposing sentence on or discharging the offender may, on application of the Attorney General or on its own motion, in addition to any other measure imposed on the offender, order that the offender make restitution to another person as follows:

(a) in the case of damage to, or the loss or destruction of, the property of any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding the replacement value of the property as of the date the order is imposed, less the value of any part of the property that is returned to that person as of the date it is returned, where the amount is readily ascertainable;

(b) in the case of bodily harm to any person as a result of the commission of the offence or the arrest or attempted arrest of the offender, by paying to the person an amount not exceeding all pecuniary damages, including loss of income or support, incurred as a result of the bodily harm, where the amount is readily ascertainable; and

(c) in the case of bodily harm or threat of bodily harm to the offender's spouse or child, or any other person, as a result of the commission of the offence or the arrest or attempted arrest of the offender, where the spouse, child or other person was a member of the offender's household at the relevant time, by paying to the person in question, independently of any amount ordered to be paid under paragraphs (a) and (b), an amount not exceeding actual and reason-able expenses incurred by that person, as a result of moving out of the offender's household, for temporary housing, food, child care and transportation, where the amount is readily ascertainable.

(2) The lieutenant governor in council of a province may make regulations precluding the inclusion of provisions on enforcement of restitution orders as an optional condition of a probation order or of a conditional sentence order. 1995, c. 22, s. 6.

CROSS-REFERENCES

"Property" and "Attorney General" are defined in s. 2. "Court" is defined in s. 716. Pursuant to paras. 718(e) and (f), two of the objectives of sentencing are to provide "reparations for harm done to victims or to the community" and to promote a sense of responsibility in offenders and "acknowledgement of the harm done to victims and to the community". Optional conditions for probation are set out in s. 732.1 and for a conditional sentence set out in s.

742.3. The procedure for restitution, where the property has been transferred or conveyed to a person acting in good faith or where the offender has borrowed money on the security of that property from a person acting in good faith, is set out in s. 739. Section 740 provides that an order for restitution has priority over other monetary penalties that might be imposed. The procedure for enforcing a restitution order is set out in s. 741. Section 741.1 requires the court to cause notice of any restitution order to be given to the person in whose favour the order was made. Pursuant to s. 741.2 a civil remedy is not affected by reason only that a restitution order was made. The definition of "sentence" in ss. 673 and 785 for the purpose of appeal in indictable and summary conviction proceedings includes an order made under this section.

SYNOPSIS

This section authorizes the making of an order, in addition to any other measure imposed upon an offender including a discharge, requiring the offender to make restitution to another person. The order may be made following an application by the Attorney General or by the court on its own motion.

Restitution may be ordered in three circumstances. Under para. (1)(a), the offender can be required to pay to persons whose property was lost or destroyed the replacement value of the property, provided that the damage or loss or destruction of the property was the result of the commission of the offence or the arrest or attempted arrest of the offender. The amount to be paid cannot exceed the replacement value of the property a the time the order is made less the value of any of the property that has been returned t~ the person. Under para. (1)(b) the offender may be required to pay an amount not exceeding all pecuniary damages, including loss of income and support, to any person who suffered bodily harm as a result of the commission of the offence or the arrest or attempted arrest of the offender. Paragraph (1)(c) allows the court to order the offender to pay an amount not exceeding the actual and reasonable expenses incurred by a spouse child or other person who was a member of the offender's household, as a result of moving out of the offender's household, for temporary housing, food, child care and transportation. Paragraph (1)(c) only applies in the case of bodily harm or threat o bodily harm to the offender's spouse, child or any other person as a result of the commission of the offence or the arrest or attempted arrest of the offender. In all case the amount must be "readily ascertainable".

Under subsec. (2) the lieutenant governor in council may make regulations that preclude the court from including a restitution order as part of a probation order or conditional sentence order.

ANNOTATIONS

NOTE: The cases noted below were decided prior to the enactment of this section but were considered of assistance in applying this section.

In *R. v. Zelensky et al.,* [1978] 2 S.C.R. 940, 41 C.C.C. (2d) 97, it was held that the predecessor to this section is *intra vires* Parliament being in pith and substance part of the sentencing process. It should be noted, however, that the predecessor did not provide for compensation as a result of bodily harm. In the same case the court held that an order for compensation should only be made with restraint and caution and in particular should not be made where there is any serious contest on legal or factual issues or on whether the person alleging himself to be aggrieved is so in fact. An order under this section is by virtue of the definition of "sentence" in s. 673 appealable as provided under the Criminal Code. The filing of the order in the provincial superior Court as provided in [now] s. 741 does not put in motion any civil proceedings other than those relating to enforcement. Only the accused has the right of appeal against a compensation order, and not the person in whose favour the compensation order was made.

The mere fact that the claim is disputed is not a sufficient basis for refusing to make the order where the amount of money involved and the nature of the claim indicate that the claim could be dealt with reasonably and expeditiously: *R. v. Ghislieri* (1980), 56 C.C.C {2d) 4, [19811 2 W.W.R. 303 (Alta. C.A.).

The accused's inability to pay a large compensation order is not determinative against an order under this section as where the making of such an order is the most expeditious way for the victim to fulfil a pre-condition entitling them to compensation from another source, in this case the Law Society Compensation Fund. Unlike a restitution order made as a term of a probation order, an order under this section is enforceable as a civil judgement and so entirely different considerations apply. Where there is no dispute as to the amounts payable it would not assist the accused's rehabilitation to permit him to put the victims to additional expense by launching civil actions: *R. v. Scherer* (1984), 16 C.C.C., (3d) 30, 42 C.R. (3d) 376 (Ont. C.A.), leave to appeal to S.C.C. refused C.C.C. *loc. cit.*

The means of the offender will not always be the controlling factor in determining whether a compensation order should be made. Thus in *R. v. Fitzgibbon* (1990), 55 C.C.C. 3d' 449, [1990] 1 S.C.R. 1005, 76 C.R. (3d) 378, it was held appropriate to make a compensation order against the accused, an undischarged bankrupt, who, while a lawyer, had defrauded his clients. The claims of the victims of the fraudulent acts should be paramount. Further, the Law Society, which through its compensation fund had paid back many of the accused's victims, was a person aggrieved within the meaning of this section and a compensation order could properly be made in its layout, provincial

legislation providing that the Law Society was to be subrogated to the rights of the victim to whom it paid money from its compensation fund. Finally, a victim who was only given partial repayment by the Law Society was entitled to an order under this section against the offender for the balance of the amount of which he was defrauded.
Where a convicted person, through funds raised by friends and relatives, voluntarily paid into Court prior to sentencing an amount equal to the maximum money that he could have benefited by his criminal fraud and prior to payment out of Court to the persons aggrieved he became bankrupt, the trustee in bankruptcy of his estate may not claim that money: *Re Blackhawk Downs, Inc. and Arnold et al*, [1973] 30.R. 729, 38 I).I..R. (3d) 75/H.C.J.).
Although the accused is an undischarged bankrupt, leave of the bankruptcy court is not required before a court in criminal proceedings makes a compensation order under this section. It is only when the compensation order is filed with the superior court that it becomes enforceable against the person and property of the accused. When the victim sought to enforce the order then the trustee in bankruptcy must be notified and the consent of the bankruptcy court obtained*: R. v. Fitzgibbon, supra.*
As with other aspects of the sentence hearsay evidence is admissible to prove the amount of the loss: *R. v. Wilcox* (1980), 43 C.C.C. (3d) 432, [19881 N.W.T.R. 353(S.C.)
A restitution order may be particularly appropriate to deter acts of vandalism and can and should be used either to replace or reduce what would otherwise be a fit sentence of imprisonment: *R. v. Hoyt* (1992), 77 C.C.C. (3d) 289, 17 C.R. (4th) 338 (B.C.C.A.).
It was held that the predecessor to para. (1) (a) did not authorize an order representing loss of rents or profits from the loss of property. The order must be limited to the replacement value of the thing: *R. v. Brunner* (1995), 97 C.C.C. (3d) 31, 38 C.R. (4th) 250. [1995] 5 W.W.R.413(Alta. C.A.)

Selected sources
1. Canadian Criminal Code Section 738 (1) and (2)

2. FAJAR HARAPAN, THE TREATMENT OF OFFENDER AND VICTIM OF CRIME FOUNDATION (INDONESIA) (TO BE ADDED)

V. Victim Support and Assistance

(D) GENDER-SENSITIVE COURT PROCEDURES

Section 10(d) of the Model Strategies urges Member States, as appropriate to provide for court mechanisms and procedures that are accessible and sensitive to the needs of women subjected to violence an that ensure the fair processing of cases.

Examples of Promising Practices Relating to Gender-Sensitive Court Procedures

TO BE ADDED

V. Victim Support and Assistance

(E) REGISTRATION SYSTEM

Section 10(e) of the Model Strategies urges Member States to make it easier for police and courts to know when a protection order exists for a particular victim, by establishing a registration system.

Examples of Promising Practices Relating to Registration System:

1. THE NATIONAL SEX OFFENDER REGISTRY (UNITED STATES OF AMERICA) .....

2. CENTRAL REGISTRY OF PROTECTION ORDERS, PROVINCE OF BRITISH COLUMBIA
MINISTRY OF ATTORNEY GENERAL (CANADA) .....

1. THE NATIONAL SEX OFFENDER REGISTRY (UNITED STATES OF AMERICA)

In August 1996, the American government announced a plan for a national sex offender registry. The Registry, summarized below, operated by the FBI, will enable law enforcement to quickly determine whether an individual has been convicted of a sex offense in any state in the country. The plan was developed by the Attorney General as directed by the President and builds on progress made by the 1994 Jacob Wetterling Act and Megan's Law.

Synopsis.

Description. The interim registry has two basic components:

- A centralized database at the FBI where existing criminal history records are flagged to identify whether an individual is a registered sex offender and where the individual is registered; and
- The National Law Enforcement Telecommunications System (NLETS), a computer-based link that will enable states to access and retrieve information from other states about registered sex offenders.

Law enforcement can use the centralized database to identify in a single, national search where an individual is registered and, through NLETS, can immediately access vital information about that individual from the indicated state registry.

The registry will be both efficient and cost-effective because it combines existing data already collected by state and federal agencies to track sex offenders. It will be operating in 6 months although states will be able to communicate through NLETS by November.

The registry announced by the President is an interim measure that will fill a critical role until a permanent National Sex Offender Registry file is in place with the FBI by mid-1999. When fully completed in mid-1999, the permanent registry will include state-of-the-art identification technique such as an indication of DNA availability, fingerprint matching and mugshots, which will be invaluable in tracking offenders.

Ultimately, the successful tracking of sex offenders and child molesters, and the prevention of future sex crimes, calls for a commitment from law enforcement at every level to work together and share information. Maintaining a reliable and centralized national sex offender registry is one step forward In addition, states should be encouraged to do the following:

- Issue arrest warrants for offenders whose addresses cannot be verified or who fail to comply with state registration requirements;
- Require submission of DNA samples as part of the state registration process, which will help significantly in the investigation of rape and serial rape cases where the suspect is unknown; and
- Work together to develop agreements for interstate sharing and disclosure of sex offender registry information to ensure public safety.

Resource person or organization to contact for further information
The National Sex Offender Registry

2. CENTRAL REGISTRY OF PROTECTION ORDERS, PROVINCE OF BRITISH COLUMBIA MINISTRY OF ATTORNEY GENERAL (CANADA)

The Central Registry of Protection Orders is a centralized computer database of Provincial Court and Supreme Court protection orders (restraining orders and peace bonds) which began province wide operation on November 15, 1995, following piloting in Vancouver, Victoria and Surrey. The purpose of this registry is to enable complete, accurate and current information regarding protection orders to be Supplied to police officers responding to calls where violence (especially violence against women in relationships) is involved, or where breach of a protection order is alleged.

Police officers can now telephone the Central Registry of Protection Orders using a confidential 1-800 telephone number, and receive information 24 hours a day, seven days a week. Upon request, police will also receive a faxed copy of the protection order.

Persons protected by restraining orders or peace bonds are now able to telephone a toll-free number (1-800-842-8467) operated by Information Services Vancouver to determine whether their orders have already been registered automatically in this program, and if not, how and where to arrange for registration. Information Services Vancouver also gives information on behalf of Victim Services, so callers will be able to receive a wide range of victim-oriented information by making a single telephone call.

The Province of British Columbia, Ministry of Attorney General has developed a booklet written for women to let them know what Central Registry of Protection Orders is, how it works and its importance as one more step in the B.C.'s effort to stop the violence against women and children. It notes that this brochure provides information only. It is not a legal document and does not contain legal advice.

Synopsis

Extract from the booklet: *The Central Registry of Protection Orders*

Violence against women and children is a problem in our society.
That's why our courts regularly issue protection orders to try to stop the violence, to keep potentially violent partners away from the they are most likely to harm.

A protection order can only be enforced, however, if the police know that it exists and it is up-to-date.

The Central Registry of Protection Orders: computer database of protection orders issued by B.C. courts. It allows police officers located anywhere in the province to phone a central number at any time during the day or night receive up-to-date, accurate information or status of registered protection orders.

What is a protection order?

A protection order can be either:

- a restraining order, made by a judge in court to restrict the activities of one person order to prevent that person from harming harassing or communicating with another person, or
- a peace bond, issued by a judge in criminal court to restrict the activities of one person order to prevent harm to another person. A peace bond may also include conditions to protect children and property.

In B.C., Family Court handles all child custody and separation actions, while the Supreme Court is responsible for divorce. Judges in both courts have the authority to issue a restraining orders whenever there is a threat of violence as the result of relationship breakdown.

Who else has access to the database information?

The information contained in the provincial database is completely confidential.

Only police officers, in the course of their duties, have the authority to request information.

How can I find out if my order is registered?

Your protection order is registered with the Central Registry of Protection Orders if it was issued on or after:

- July 10, 1995, for restraining orders issued by the Family Court
- August 10, 1995, for peace bonds (known officially as Section 810/810. l Criminal Code Recognizances) issued by the criminal court, and
- October 10, 1995 for restraining orders issued by the Supreme Court.

What if my order has not been registered?

If your order was issued before the dates mentioned and you want it registered please contact the Court Registry nearest you (the number is in the blue pages of your local telephone directory, under: Province of British Columbia, Attorney General - Ministry of) or telephone 1-800-563-0808.

If you live in Vancouver, and you have:

- a restraining order issued by the Provincial Family Court, please call 660-7944
- a restraining order issued by the Supreme Court, please call 660-2943
- a peace bond issued by the Provincial Criminal Court, please call 660-4200.

What will I need to tell them when I call?

Be prepared to give registry staff as much information about your order as possible, including, if you can:

- the names of the people involved
- your case file number
- the name and location of the court that issued the order, and
- the date the order was made.

Registry staff will find out the status of your order for you. If your order is still valid, they will help you make sure it is registered as quickly as possible.

Please remember, however, that the police will continue to enforce all valid protection orders, whether or not they are registered.

What if I have a protection order issued outside of B.C.

If you have a protection order issued in another province or country, please contact the Court Registry nearest you to find out if your order is valid and enforceable in B.C., and how to have it registered.

What else is the government doing to protect women and children?

In 1993, the Ministry of Attorney General updated British Columbia's Violence Against Women in Relationships Policy. This policy makes it clear that violence within a relationship is a crime, and directs the justice system to take the steps necessary to ensure the protection of women and children who may be at risk.

In June 1995, the province introduced two new pieces of legislation to formally recognize the role of victims of crime within the justice system. Once proclaimed:

- The Victims of Crime Act will give victims the right to information about their cases, including the right to request and receive information about the status of the charged person or offender - under arrest, out on bail, released on probation, for example.
- The Criminal Injury Compensation Act will extend the benefits available under the Criminal Injury Compensation Program to include family members of murder victims and victims who are criminally injured while on the job.

Earlier in 1995, the province also made criminal injury compensation available to the victims of stalking - most often women who are followed, harassed and threatened by their ex-partners.

Cost issues. Start-up costs for the program were shared by the ministries of Attorney General and Women's Equality; ongoing costs will be assumed by the Ministry of Attorney General.

Resource person or organization to contact for further information
Ministry of Attorney General of British Columbia
Victoria, British Columbia, Canada V8W 1X4
Telephone 1-800-563-0808

Selected sources
1. *The Central Registry of Protection Orders.* Ministry of Attorney General of British Columbia

VI. HEALTH AND SOCIAL SERVICES

(A) RESIDENTIAL ACCOMMODATIONS

Section 11(a) of the model strategies urges member states, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes, to establish, fund and coordinate a sustainable network of accessible facilities and services for emergency and temporary residential accommodation for women and their children who are at risk of becoming or who have been victims of violence.

Examples of Promising Practices Relating to Residential Accommodations:

1. THE MUSASA PROJECT - NGO PROVIDING COUNSELLING, RESEARCH AND TRAINING TO COMBAT VIOLENCE AGAINST WOMEN (ZIMBABWE).....

2. WOMEN'S AID SERVICES IN THE UNITED KINGDOM (UNITED KINGDOM).....

3. WOMEN'S AID ORGANIZATION IN MALAYSIA (MALAYSIA).....

4. ST MARY'S CENTRE: THE MANCHESTER MODEL (UNITED KINGDOM).....

5. THE ANSA-PROJECT: ACTIVE CARE OF ABUSED WOMEN IN ACUTE TRAUMA CENTERS (FINLAND).....

6. THE ROLE OF REFUGES IN IRELAND - REPORT OF THE TASK FORCE ON VIOLENCE AGAINST WOMEN (IRELAND).....

1. THE MUSASA PROJECT - NGO PROVIDING COUNSELLING, RESEARCH AND TRAINING TO COMBAT VIOLENCE AGAINST WOMEN (ZIMBABWE)

The following article from the Legal Officer of the Musasa Project provides information on the Musasa Project and its role in assisting women in Zimbabwe suffering from domestic abuse.

Synopsis

Description. The Musasa Project was set up to take action on the problem of violence against women in Zimbabwe. Through counselling, support, consciousness raising, public education, and training, the organization aims to empower women who have been raped or beaten to mobilize the community on these issues. The Musasa Project provides emergency shelter to women, counselling and legal support. The project has lobbied the government to change legislation on the police role in cases of domestic violence. Another vital component of the project's work with the government involves public education on law reforms, the rights of women, the maintenance law, the rights to property in cases of divorce.

Marriage is a very private affair, and the world is not meant to know that all is not well. Many problems facing women in domestic violence situations are determined by cultural and economic factors that disempower them, preventing them from seeking help for themselves from such relationships.

Excerpt from the article: *the Musasa Project*
At Musasa we are dealing with a woman who has come to the end of the road and whose moral is so low that she has lost faith in herself as a human being. She is a human being who has been told that she is stupid, incapable and responsible for the pain she feels. Many women endure violence for many many years. When they come to seek for help from Musasa, it is often as the last resort. The types of clients who seek assistance from the Musasa project

are:

- Women who are physically assaulted, commonly by their partners.
- Women who are forced to have sex against their will, including by their husband.
- Women who are emotionally abused, including intense psychological abuse, being told they are worthless and stupid and kept isolated from outside contacts.
- Women who have been economically sabotaged - denied the right to work or engage in income generating projects. House may be sold without woman's knowledge, or her earnings taken by force from her
- Women deserted by their husband, no maintenance being paid by the husband.

We are talking of a woman with no refuge. If she attempts to return to her rural home, she will be told to go back and endure, for that is what is expected during marriage. The bride price has been paid, and there is no means to repay it. She will be seen to have brought shame and humiliation on her family, viewed as defective merchandise. The house that she is staying in, is registered in her husbands name, and if she might consider divorce, the prevailing attitudes may leave her with no material goods. Eventually the husband may sell the house without her knowledge and consent and she will find herself evicted.

This woman recognises that if she does not leave, more often than not, she would have to start from scratch. She has no savings, no job and no form of income. Because her self worth has been eroded, she may not recognise the skills that she has and can use to generate income. If she does find employment, her spouse may harass her at her place of work. The combination of physical and psychological abuse wears this woman down until she feels herself to be worthless.

MUSASA'S ROLE:

1. Safety

When such a client walks into Musasa the first thing to consider is the safety of herself and her children. This is established by asking several questions:

- Has she been threatened? What type of threats have been made against her?.
- Have they been made before? Have they been carried out?
- What kind of force has been used against her? Was she kicked, shoved or choked? Were weapons used?
- Is she in danger if she stays in her home?
- Does she have friends or relatives that she can stay with? Would that be safe for them and herself? Is there an alternative place of safety?

2. Providing a Supportive Environment

The women that come to Musasa for help, come with expectations. At Musasa we try to create an environment where women can start to rebuild their lives. Before women can start to discuss their experiences, they need to be reassured of the following:

- Absolute confidentiality
- A place to pour ones heart out without being judged or patronised
- Empathy, not sympathy
- Reassurance of her capability and usefulness
- Moral support and to know they are not alone in the crisis

3. Musasa’s Role as Counsellors

Musasa aims to slowly work with their clients to restore their self esteem and provide information about available resources. This might include where to go to seek police protection, or how to make a claim in court. Battered women need to be encouraged to gain more control over their lives, by making necessary decisions. These are often difficult decisions about the future of relationships, or about whether she will try to use the law to prevent further violence.

4. Legal Counselling

Often clients who come to Musasa for assistance have little or no information about how to obtain legal assistance. Musasa has a lawyer who is able to give women the information that they need. This might include the following:

- Assistance in bringing forward an assault charge in court
- Moral support for the decision to report a rape case
- Guidance regarding custody issues
- Issues regarding maintenance
- Insights on the implications of different marriage types - e.g. whether a woman is able to sue for adultery damages or not Assistance in getting a binding over peace order
- Assistance in filing for a divorce/getting legal representation

The challenges faced by Musasa and its counsellors are numerous and include:

- Often clients suffer from low self-esteem and loss of confidence
- Frequently clients are unsure about what they want and frequently have difficulty making decisions: they expect counsellors to tell them what to do
- Clients may get defensive and offer excuses for the abuser's behaviour
- Counsellors must resist client's desire for instant solutions to their situations.
- How to combat the hopelessness and isolation that many women feel

The fundamental basis of counselling is a willingness to listen and to be supportive. There are no hard and fast rules for counselling, nor any instant formula for success.

On the whole we seek to assist a woman to become independent and to gain more control over her life. She should not be removed from a domestic violence situation to be placed under the control of a well meaning but abusive counsellor.

Implementation details. The Musasa project has a strategically selected Board of Trustees that include representatives from the Ministry of Political Affairs, the Zimbabwe Republic Police, the Ministry of Justice and the Parliament of Zimbabwe, as well as from other national organizations. It is funded primarily through international donors - both the NGO's such as Oxfam America and CUSO - and governments, the Netherlands and Canada. Nationally, funding comes from annual membership.

Evaluation. Not noted

Resource person or organization to contact for further information

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Itarare, Zimbabwe

Selected sources

1. Chengu, Idaishe. "Meeting Basic Counselling Needs for Our Clients: the Musasa Experience".

2. "Working the System: Sensitizing the Police to the Plight of Women in Zimbabwe' Stewart, Shelagh in Margaret Schuler (ed.) Freedom from Violence: Women's Strategies Around the World (UNIFEM: 1992).

3. Peacock, Christina. ' The Musasa Project - Counselling and Research Project on Violence Against Women in Zimbabwe".

4. Violence Against Women in Zimbabwe: Strategies for Action. Report of the Musasa Project Workshop held at Monomotapa Hotel: 3-4 February 1997.

5. Newsletter of the Musasa Project.

2. WOMEN'S AID SERVICES IN THE UNITED KINGDOM (UNITED KINGDOM)

The following excerpt provides a description of the principles and policies of Women's Aid Services in the United Kingdom.

Synopsis

Description. Through the provision of support and education Women's Aid services aim to empower women who have been victims of male violence. These services are based on the four following principles:

- The central importance of the abused woman's perspective in the provision of support and services.
- The need to empower women and to enable them to regain control of their own lives. Women's Aid services are provided by women and for women.
- The value of the mutual support of other women who have similar experiences.
- A commitment to caring for the emotional, developmental and educational needs of children affected by domestic violence.

The work and standards of Women's Aid groups affiliated to the four federations are bound by policy statements and codes of good practice which encompass these principles, together with policies on the following:

- Self-help and self-determination.
- "Open door" policies - all women are found a safe place to go.
- Equal opportunities and anti-discrimination.
- Confidentiality.
- Provision for children.
- Education and liaison.

These values and principles underlie all the work of the refuge network and of many other services provided for women experiencing domestic violence and their children. Self-help, self-determination and empowerment are particularly important principles. They have always formed the foundation stones of what the Women's Aid movement stands for, and they inform the other principles and policies as well. Through self-help, the Women's Aid services aim to help women to help themselves and other women to establish independent services to combat male violence. One of the aims of empowerment is that those who are empowered might choose to become resistant to the status quo, or might even try to challenge those who have power. The women's movement has been developing the idea for years as a way of resisting male control and power over women, and also as a means to oppose other sorts of discrimination on the grounds, for example, of race or social class.

Empowerment for abused women means becoming more powerful on a personal and psychological level so that they have the strength and emotional resources to break away from or to change violent relationships, if they choose to. Importantly, it means having the economic and other resources to do so, which is why the provision of adequate financial support through the welfare benefits system and access to permanent housing options is so important for abused women and children. Empowerment also means women being able to help each other in refuges and support groups to deal with violent relationships and live violence-free lives. One of the basic tenets of refuges has always been that women can assist each other to grow strong.

Evaluation. Not noted

Selected sources.
1. Domestic Violence: Action for Change (Hague & Malos)

3. WOMEN'S AID ORGANIZATION IN MALAYSIA (MALAYSIA)

The following excerpt provides a brief description on the Women's Aid Organization in Malaysia, its philosophy,

services and activities.

Synopsis

Description. The fundamental belief of Women's Aid Organization (WAO) as outlined by its Executive Secretary, Ivy N. Josiah, is that no one deserves to be battered, all human beings have the right to self determination and should have control over the conditions that shape their lives.

Malaysia's first Refuge was opened in September 1982. It offers three main services to battered women and their children: shelter, telephone counselling and Face-to-Face counselling.

The goals of the WAO are: (1) to provide on request temporary refuge and after care to battered women and their children; (2) to encourage these women to determine their own future and to help achieve it. To cater to the educational and emotional needs of the children involved; (3) to conduct research on domestic violence; (4) to educate and inform the public on violence against women; and (5) to lobby for legal reform for protection of women and children.

WAO services and activities include:

1. Refuge: Annually, the Organization provides shelter to an average of 100 women and 145 children. During their stay the women can receive counselling, legal advice, assistance in job placements and housing.

2. Face-to-Face Counselling: An average of 50 women seek this service yearly. Professional social workers offer counselling sessions to women who may not necessarily seek shelter but want counselling.

3. Telephone Counselling: On average 1500 counselling calls are received every year. Telephone counselling is available to deal with women's problems, crisis situations and basic legal queries.

4. Anak Angkat Programme: A Child Sponsorship Programme launched in 1985 to address the educational needs of the children of ex-residents of the Refuge. Monthly donations are made by individuals and companies to meet the school expenses of a child.

5. Child Care Centre: A temporary child care service, opened in 1991, for the children of ex-residents from the Refuge who have decided to live independently. The Centre meets an urgent need expressed by many women who have difficulty in finding a full-time job and reliable, affordable childcare.

6. Publication of a Self Help booklet for victims of domestic violence in 4 languages

7. Publication of a health manual for Refuge workers: a manual that will serve as an easy reference for Refuge workers on how to conduct health sessions for Refuge residents.

8. Support group meetings for independent mothers: Besides emotional support the mothers are given aid to set up their own business.

9. Developing a counselling handbook for medical staff: In 1993 WAO worked with the Hospital Kuala Lumpur to devise an accident and emergency department protocol for patients of Domestic Violence. This protocol, called the One Stop Crisis Centre, has since become standard in most government hospitals.

10. Monitoring the Domestic Violence Act, Malaysia, 1994: Documentation of the implementation of this Act by the police, welfare department and the courts. Reviewing the Act for legal reform.

11. Public Education and advocacy on issues pertaining to women.

WAO undertook the first national research on Domestic Violence in 1990 and published these findings in 1995.

Over the years, the WAO organised innovative public education programmes on Violence Against Women on radio, television and newspapers. WAO plays a lead role in advocacy work, public education and law reform on domestic violence and continues to play an important role in the women's movement in Malaysia

Implementation details. The Women's Aid Organization is a registered society under the Registrar of Societies. It has 70 members and 15 active volunteers. There are 2 centres: (1) the WAO Refuge and (2) the WAO Child Care Centre and a staff of 10 women comprising social workers and administrative personnel.

In 1985 WAO was a pioneer member the Joint Action Group (JAG) Against Violence Against Women that initiated the lobbying for the legislation of the Domestic Violence Act. WAO continued to work with JAG to coordinate the advocacy and public education work until the Act's implementation in 1996.

Evaluation. Not noted

Resource person or organization to contact for further information

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e-mail: wao@po.jaring.my

Selected sources

1. Women's Aid Organization. Organizational Fact Sheet

2. Hebert, L. (Dec 1997). Monitoring the Domestic Violence Act 1994 Malaysia.

4. ST MARY'S CENTRE: THE MANCHESTER MODEL (UNITED KINGDOM)

"The First Sexual Assault Centre in Great Britain" is a publication which provides information about the factors which led to establishing the St Mary's Centre in Manchester; how the various agencies involved learnt to work together; what the problems were and how they were surmounted; and what lessons have been learnt from these problems. The following has been summarized from this publication.

Synopsis.

Description. The St Mary's Centre was established in 1986 after a working party, consisting of representatives of the police, police surgeons, St Mary's administrators, nursing management, a consultant gynaecologist and a consultant psychiatrist, was set up to discuss the feasibility of setting up a Sexual Assault Referral Centre in St Mary's Hospital. The aim of the Centre is "to provide a comprehensive and co-ordinated forensic, counselling and medical aftercare service to those who have experienced sexual assault recently or in the past".

The Centre offers its services to victims of assault who report their case to the police, to victims who choose not involve the police, and to victims how have been assaulted in the past. In a straightforward case reported to the Greater Manchester Police, the complainant is brought to the Centre where the investigation is conducted. A counsellor is made available and remains with the woman, if she so wishes, throughout the police investigation, including statement taking and medical examination. The medical service includes offering the 'morning after' pill and VD advice and treatment both at the initial examination and at a later follow-up. After the forensic medical examination the woman can shower in the Centre and change her clothing which will be retained for forensic examination.

If a woman who has been the subject of a recent offence comes to the centre without involving the police, she is offered all the services of the Centre. The police will be informed only if she wishes that but if she is unsure whether she wishes to involve the police, forensic specimens will be taken and stored in the Centre for seven days while she decides what she wishes to do.

Medical examinations and counselling are made available to victims of recent and past cases of assault. Follow-up appointments for medical tests and counselling are offered for as long as necessary and the counsellor will accompany the woman to court and support her during the trial.

Among the services offered by the Centre is advice and support to the relatives of the complainant. Husbands and boyfriends often find great difficulty in coming to terms with what has happened and an important aspect of helping the woman to recover is enabling here relatives to understand and support her.

A vital part of the work of the Centre is the weekly Case Conference/Policy Meeting. The Centre works well as a team with members sharing a common purpose, understanding each other's contribution, pooling knowledge and sharing responsibility for the outcome. Every Thursday, the Centre's counsellors, the Clinical Director, forensic physicians, the consultant psychiatrist and the police liaison officer meet to discuss the week's work. All recent cases are fully discussed, those not involving the police being dealt with after the police officer has left.

Decisions to refer outside the Centre, for example to social services or to other doctors not associated with the Centre, are taken at these meetings and the further management of each individual is discussed and a strategy agreed. It is important for people working together, particularly in a new and unique venture such as this, to meet regularly and exchange ideas. It helps to foster a feeling of mutual respect among those working together and establishes the corporate identity of the unit.

The Centre's staff have had numerous training including a six-week training programme in which they attended the policewomen's specialist course; visited the Home Office Forensic Science Laboratory; attended Sexually Transmitted Disease Clinics and Gynaecological clinics; and had teaching from the Clinical Director, the Consultant Psychiatrist and Nursing Officers. They also had discussions with members of Rape Crisis line, social services personnel and victim support workers.

Since opening in December 1986, the Centre has seen approximately 200 women (and a few men). Many others have been given advice over the telephone. The age range has been between 12 to 68 with the majority of the complainants being between 15 to 25. Of the first 150 cases, 64% were raped by persons they knew; 30% in their own homes; 56% of the referrals were from the police and rest self-referrals or from other agencies such as Women's Aid or Samaritans.

A number of people who have contacted the Centre have been the subject of continuing abuse sometimes by a family member since childhood. The Centre was not designed primarily to cope with those problems and there has been some confusion in the minds of the public about this. The Centre is primarily a crisis intervention service for rape, but there is clearly a vast unmet need for better services for those who have suffered continuing sexual abuse.

Any woman who is going to put herself through the trauma of a rape investigation has a right to expect that the investigation will be conducted to the highest standards from every point of view, but there are still places in this country where a rape examination is done in ten minutes by a doctor who has no forensic training and who does not realise the importance of a thorough examination of the whole body or even how to take the forensic samples correctly. This is a scandal which should no longer be tolerated. It is unfair not only to the complainant, but to the man who may be accused and does not serve the interests of justice.

Implementation details. One month before the Centre opened, an Open Forum was held at St Mary's Hospital to which representatives of professional bodies such as the University, the Area Health Authority, The Family Practitioner Committee representing family doctors, The Social Services and the Police Authority, and representatives of voluntary bodies such as Community Health Councils, Victim Support Schemes, Rape Crisis and Samaritans were invited. Members of the working party outlined the plans for the Centre and answered questions from the audience. Many concerns and suggestions were made at this Open Forum including:

1. Confidentiality: There had been criticism that because of police involvement in the Centre it would not be possible for the service to be confidential for those women who did not want the police to be involved. These fears were allayed.

2. Ethnicity: The problems of ethnic minority women were stressed, but suggestions that a counsellor from the ethnic minorities should have been employed from the outset were not accepted. It may well be that such a counsellor will be employed in the future, but as yet no suitably trained person has applied.

3. Location: There was also criticism of the fact that the Centre was located in a hospital and that this was "medicalising the problems of raped women", but in the event it has proved to be of inestimable value to have the facilities of the hospital available, not least when one woman with a suspected ectopic pregnancy collapsed during the medical examination and needed urgent resuscitation. The advice and support of the consultant gynaecologist on the management team has been invaluable and she has been able to see women at very short notice.

Cost issues. Funding is obtained from the Inner Cities Fund of the Department of the Environment to alter and refurbish the accommodation. Running costs of the centre such as heating, lighting and cleaning are paid for by the Health Authority. The salaries of the counsellors and the Clinical Director are paid by the Police Authority.

Selected sources

1. Roberts, Raine Dr. *"The First Sexual Assault Centre in Great Britain"*

5. THE ANSA-PROJECT: ACTIVE CARE OF ABUSED WOMEN IN ACUTE TRAUMA CENTERS (FINLAND)

At the department of Oral and Maxillofacial Surgery, Department of Surgery, Helsinki University Hospital (HUCS), a pilot study was initiated in 1995, as part of a nation-wide project ANSA, relating to treatment and support of abused women. This project is active in hospitals and acute centers in southern and eastern parts of Finland covering about 30% of the Finnish population.

Synopsis

Description. The aims of the ANSA-project can be summarizes as: recognition, education, training, collection of data and research. Special importance is paid on encouraging women to seek help and nor accept domestic violence. Another main goal is to promote and accelerated public debate about domestic violence. The essential ideas of the project are to put the abused woman in focus, start from her needs, her feelings and her priorities. To give her support and sufficient information. Let her herself, if possible, make the decisions to be made. Be sure that she, despite what her decision is, has all the information she needs about how and where to find help and support if needed.

Implementation details. The project is organized through a board of representatives from the Department of Surgery (HUCS), Kuntokallio Research Center, the Council of Equality (Ministry of Health and Social Care) and Helsinki Health Department. The goals for the project were the already mentioned, as well as the most important factor: to engage devoted project workers in the project. The health care professionals, working on a voluntary basis, realize the benefits for woman, children, families and society, those benefits being: getting the support they need, in the form of resources (time, money, goodwill and legality) through the health care units. The action plan consisted of project teams working individually in the different participating units. The teams are set up of members with different areas of expertise, health care workers, doctors, social workers etc. The project workers, who are given ongoing education, create action plans suited for different centers, while working with the clinics they represent. Other agencies involved include: social care organizations within the community, women's shelters, police and other projects involved in domestic violence.
The goals in the action plan of this project will be a challenge to the health care system in Finland, and play an important role as a model for active intervention and support of abused women in the health care system as a whole.

Cost issues. Funding was supplied based on the nation-wide project, an action plan for eliminating violence against women prepared by the Ministry of Social Affairs and Health (STAKES), and the Council of Equality on behalf of the Finnish government.

Evaluation. Not noted

Resource person or organization to contact for further information

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Selected sources

1. Joint Venture of the Department of Surgery (HUCS), Kuntpkallio, and the Council of Equality in conjunction with the Ministry of Health and Social Care

6. THE ROLE OF REFUGES IN IRELAND - REPORT OF THE TASK FORCE ON VIOLENCE AGAINST WOMEN (IRELAND)

The Report of the Task Force on Violence Against Women outlines the Task Force's recommendations with respect to the role, access, services and funding of Accommodation and Refuges to victims of domestic violence in Ireland.

Synopsis.

Description.

Excerpt from the text: Report of the Task Force on Violence Against Women

The Task Force advocates that, in cases of domestic violence, women and children should be facilitated to remain in their existing accommodation. It is the perpetrators of violence who should be obliged to leave the home. However, in reality this is not always feasible and the woman is sometimes forced to leave her existing accommodation and seek a safe alternative place to stay. The Task Force believes that when a woman must seek accommodation outside of her circle of family and friends, a properly managed refuge with the capacity to provide a range of services offer the best option in a crisis situation. Thus the Task Force believes that refuges are important in the overall framework of services that should be available to women and children who are faced with violence in relationships.

<u>The Role of Refuges</u>

The Task Force recognizes the work done over the past 25 years by Women's Aid, the Federation of Refuges, and other voluntary organizations in developing refuge services and providing help and shelter to women and children. The philosophy underlying the development of refuges is the provision of a mutually supportive and caring environment that empowers women to make informed, independent choices for both their own future and that of their children.

The core role of refuges is to provide emergency accommodation for women who have been subjected to violence. The accommodation offered should provide a comfortable physical environment in an atmosphere which promotes dignity and empowerment. In order to achieve this there needs to be specific standards of accommodation and comprehensive backup and support services for women and children, including information, advice, court accompaniment, medical and health services.

In this report the Task Force recommends the following with respect to the role of refuges:

1. In Rathmines, Dublin 6 it was noted that the refuge run by the Eastern Health Board has a specific General Practitioner assigned to it who is available to treat women and children on admittance, and who will testify in Court about the woman's injuries. In addition, all residents of the refuge are covered by a general "in-house" Medical Card and a Public Health Nurse attends the refuge on a monthly basis to examine all children under 6 years of age. The Task Force recommends that similar arrangements be put in place by Health Boards covering all refuges in their areas. The assignment of the General Practitioner would not impinge on the rights of women residing in refuges to attend a practitioner of their choice.

2. Clarification of the role and responsibilities of Social Workers in the refuges by the appropriate statutory bodies.

3. Counselling should be made available to women and children either directly within the refuge or on a referral basis.

4. Emphasis on the educational and safety needs of children accommodated in refuges. The Task Force recommends that if a mother wishes her children to remain in the school they were attending prior to moving to the refuge, and where this is a realistic option, every effort should be made to facilitate her in this regard. Where such an option is not possible, the Department of Education should ensure that the children can attend school in the vicinity of the refuge throughout the period the family is at the refuge. In addition, it is recommended that

the local Gardaí cooperate with refuges in ensuring the safety of children while commuting to and from school in situations of fear of intimidation or abduction.

The Task Force considers that while bed and breakfast/ hostel accommodation provides emergency accommodation when no other alternative is available, they are an inadequate response to complex family needs, and women and children fleeing a violent situation need more than just a shelter.

Length of Stay in Refuges

Given the emergency nature of refuge accommodation should be viewed as a short to medium term facility. The Task Force, however, does not consider that it would be feasible for length of time to be defined. It is important that women are accommodated until such time as it is safe for them to return home, move onto second stage housing, or to a new home.

It is also important to ensure that women and children are provided with the supports and options which facilitate progress out of the refuge n the short to medium term. This not only benefits the women and children in terms of regaining control of their lives, but also ensures that refuge accommodation is generally available to facilitate immediate situations of crisis, thus minimising the risk of other women and children having to be refused shelter.

Services offered

It is important that as many services as possible are accessible through refuges are available to all women who require them, regardless of whether or not they seek refuge accommodation. The Task Force considers that ongoing support services are essential and as such recommends that a system of outreach services be developed which facilitate women who cannot, or who do not wish to, go to a refuge, and for women who have left refuge accommodation.

Management and Staffing

The Task Force recommends that:

1. All refuges have a core full time staff, including a night staff to ensure the range of services outlined above be provided.
2. Refuges should actively encourage women who have experienced violence to participate in the management of the refuge through representation on the management committees.

Access to Refuges

Refuges and other services should be aware of, and sensitive to, issues faced by particular groups of women (such as traveller and settled women, women with disabilities, migrant women, women from ethnic minorities, lesbian women, prostitutes, and women suffering from HIV/AIDS) and ensure that they do not face further isolation or discrimination. Core training and good practice guidelines should address issues around non-discriminatory practices.

The Task Force recommends the practice of some refuges of only taking children up to a specified age be discontinued and that every effort be made to keep the entire family unit together.

The question of access also arises in the context of geographical location of refuges. The Task Force believes that services such as the development of outreach services, the provision of information, and the provision of help lines can go some way towards overcoming geographical isolation.

Development

There are currently 13 refuges operating in Ireland. The majority of these are run by voluntary groups. While the development of refuges will depend on demographic trends, the Task Force recommends that that any woman who has to leave home should have access to a refuge and associated support services either in her own or adjacent county. Currently, there exists priority areas for the development of new refuges: Dublin West, South Leinster/South Midlands, West Connaught and the North East.

Implementation details

Cost issues. Inadequate funding and the lack of a clear national policy has hampered the development of refuges. At present, many refuges have no core funding and are dependent on payments of annual once-off grants and fundraising. Most refuges, with the exception of the refuge in Rathmines, Dublin 6

are run by voluntary organizations with government support being channelled primarily through Health Boards. There is however, an unequal distribution of public funds throughout the country, the many demands on the Health budget and differing priorities within Health Board regions.

The capital cost of providing refuges through the voluntary sector is met largely, but not exclusively, with support under the Department of Environment's Capital Assistance Scheme. The running costs are met by the Health Boards. In 1996 the Health Board provided £1.7 million to refuges. The level of financial support provided by the Health Boards represents approximately 90% of total expenditure on such services, with refuges having to rely on various fundraising activities for the balance.

The Task Force recommends that primary responsibility for the planning and development of refuges should rest with the Health Boards through the Department of Health. This task should be undertaken in consultation with the Department of the Environment which provides a source of capital funding under its Capital Assistance Scheme to voluntary groups providing refuges. The core costs of refuges should be met from the Department of Health vote and administered through Health Boards.

In drawing up proposals for refuges, it is important that funding should not alone cover capital costs but include estimated ongoing future costs of providing a quality service. The provision of funding should be conditional on groups meeting specific criteria in relation to access and the range and quality of services. This proviso will entail service agreements being drawn up between Health Boards and individual refuges based on needs analysis and service planning.

It is noted that currently, under Section 65 of the Health Act, 1954 funding is restricted to year on year funding. While in practice many organizations can expect to receive on-going funding, nevertheless the Task Force recommends that this statutory limitation be re-examined to allow the introduction of multi-annual budgeting that facilitates more accurate costings, long-term planning and service development.

Evaluation. Not noted

Selected sources

1. Report of the Task Force on Violence Against Women, published by the Office of Tanaiste, Ireland. April 1997

VI. Health and Social Services

(B) INFORMATION AND SUPPORT

Section 11(b) of the Model Strategies urges Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes, to establish, fund and coordinate services such as toll-free information lines, professional multidisciplinary counseling and crisis intervention services and support groups in order to benefit women who are victims of violence and their children.

Examples of Promising Practices Relating to Information and Support:

1. THE NATIONAL CLEARINGHOUSE ON FAMILY VIOLENCE (CANADA).....

2. MUNICIPAL AND COMMUNITY STRATEGIES TO REDUCE VIOLENCE AGAINST WOMEN (CANADA) .....

3. BRITISH COLUMBIA ASSOCIATION OF SPECIALIZED VICTIM ASSISTANCE & COUNSELLING PROGRAMS (CANADA) .....

4. ONE STOP CENTRES (MALAYSIA) .....

5. CRISIS AND COUNSELLING SERVICES HELP & SHELTER (GUYANA).....

6. RAPE CRISIS CENTRE TUKINAINEN (FINLAND).....

7. AUTONOMOUS WOMEN'S CENTRE AGAINST SEXUAL VIOLENCE (SERBIA) - *TO BE ADDED*
8. CULTURAL CENTRE FOR BLACK WOMEN (BRAZIL) - *TO BE ADDED*
9. CENTRE FOR TREATMENT AND PREVENTION OF DOMESTIC VIOLENCE (CHILE) - *TO BE ADDED*

1. THE NATIONAL CLEARINGHOUSE ON FAMILY VIOLENCE (CANADA)

Synopsis. The National Clearinghouse on Family Violence is a national resource centre for Canadians seeking information about violence within the family and new resources being used to address it. Topics include: child abuse and neglect, child sexual abuse, woman abuse & violence against women, and abuse of older adults. Services include: publications distribution, video collection, referral & directory service, bibliographies, library reference collection, faxback service (FaxLink), wheelchair accessible, alternate formats available, TTY for hearing impaired.

Cost issues. Not noted

Evaluation. Not Noted

Resource person or organization to contact for further information
Health Promotion and Programs
Branch, Health Canada
Jeanne Mance Bldg., 18th Floor
Address Locator: 1918C2
Ottawa, Ontario K1A lB4

Toll-free telephone: 1-800-267-1291
Toll-free TTY: 1-800-561-5643
Toll-free faxlink: 1-888-267-1223
Facsimile: 613-941-8930
www.hc-sc.gc.ca/nc-cn

Local telephone: 613-957-2938
Local TTY: 613-952-6396
Local faxlink: 613-941-7285

2. MUNICIPAL AND COMMUNITY STRATEGIES TO REDUCE VIOLENCE AGAINST WOMEN (CANADA)

The London Coordinating Committee to End Women Abuse (LCCEWA) is described in the report by the Federation of Canadian Municipalities: Building Safer Communities for Women - Municipal and Community Strategies to Reduce Violence Against Women. The following was summarized from the report.

Synopsis. The London Coordinating Committee to End Women Abuse (LCCEWA) is an umbrella organization composed of representatives from social services and other relevant agencies which promotes coordination of services for abused women among the criminal, and family justice, mental health, medical and social services since 1980. The current concerns of the LCCEWA have focused on more complex issues such as maintaining funding for services for abused women, their children and offenders; expanding their knowledge of the changing needs of the population; exploring racism and cultural sensitivity; ensuring ongoing effective service delivery; and addressing policy questions in various agencies and governments.

Maintaining a healthy relationship between primary services providers and abused women, their children and offenders remains a focus of the committee's efforts.

The committee developed Community Accountability Principles to ensure that social service, medical, mental health, educational and justice systems, as well as grassroots community groups, develop policies and programs to

promote women's equality and safety. These principles also hold service agencies accountable for sensitively and appropriately meeting the needs of diverse multicultural/multilingual communities, First Nations people, lesbians and gay men, persons with physical disabilities, persons with developmental disabilities, older persons, persons with HIV-positive testing and persons with low literacy skills. This component of the LCCEWA's Community Accountability Principles is consistent with a gender-specific analysis of crimes committed against women because it recognizes the diversity of women and the special needs of each group which women fall under.

Through its membership and public education in the community, the committee has been able to engender a coordinated and compassionate response from community service providers based on the principle of women's equality. For women, equality means the realization of rights that have been denied as a result of cultural, institutional, behavioural and attitudinal discrimination which restricts women's full participation in their communities. In London, service delivery is completely respectful of a woman's right to immediate service which meets her needs. Follow-up counselling services provide women with the opportunity to move beyond the abuse so that they can more fully participate in community life. The swift response to abused women based on their right to fair treatment under the law ensures that women are better protected from the men who abuse them.

When a woman reports that she has been assaulted, a specialized intervention team acts immediately to ensure her safety. The Family Consultation Service, which consists of five civilian social workers and counsellors, are on duty at police headquarters, night and day, to respond to domestic violence calls. When summoned, the team ensures that women and their children are safe, and then proceeds to link family members up with appropriate helping agencies in the community.

The Battered Women's Advocacy Centre was created for the purpose of restoring power to abused women after prolonged exposure to physical and psychological abuse. Women are referred to the Centre for intensive psychological counselling and guidance to various health, legal, housing or vocational services they may require. The existence of the Centre sends a clear message to the community: violence against women exists and it is prevalent enough to spawn the creation of the Centre. This message is a basic one for abused women. To heal from the trauma of abuse, battered women must be able to talk to people who believe their abuse happened and will validate that experience for them.

Secondly, through its counselling services, the Centre provides abused women with the opportunity to voice their feelings after years of denial. Expressing feelings such as anger is the backbone of healing for abused women.

Thirdly, the advocacy services the Centre provides are essential to battered women. Women often describe the early stages of their healing as a variety of natural disasters. Having to take full responsibility for accessing services such as legal aid can overwhelm women who have recently taken on the emotional, mental and spiritual burden of facing their abuse.

The specialized treatment women receive through the London service delivery system reflects one of the basic principles of a gender-specific analysis of crimes committed against women: that women experience violence differently from men and therefore require a response which is specific to them.

The LCCEWA's conflict resolution process has two essential components which are the key to successful resolution: allowance for the expression of differences among members and the time required to thoroughly air those differences to the membership. The process is successful, however, not in and of itself, but rather as a result of an attitude of acceptance of differences each person and discipline bring to the committee and a shared value base and understanding about the underlying issues and dynamics of woman abuse (outlined in the Base Principles for Service Delivery).

The energy committee members put into problem-solving rather than on determining whose position was correct reveals a basic trust among members which emerges following the opportunity to experience first-hand the knowledge, skills, perspectives and professional limitations of the other members. This experience helps to dispel some of the stereotypes and preconceived judgements that lead to competitive positions to determine "who is right" or "who knows best". The committee's ability to operate in a way that values and respects each person's contribution and opinion enables it to always move on to helping clients rather than spending all its energy on professional "turf' issues. We saw this movement among committee members in the example cited above.

Trust, an attitude of acceptance of members' differences and a shared value base are important components in community collaboration which the LCCEWA has developed. These elements are the foundation upon which conflicts among members can be resolved. Add to this foundation, an allowance for the expression of differences and the time required to voice them until members are satisfied they have been heard, and a successful conflict resolution process, like the LCCEWA's is born.

Simple Goals

The third and final reason for the committee's success in reducing woman abuse is in its practice of undertaking small projects with short-term gain. These projects provide committee members with a sense of accomplishment which continues to motivate them and community members to reduce woman abuse in London. Examples of these projects include briefs which the committee prepares to respond to proposed federal and provincial legislation affecting violence against women; a video for children who have witnessed violence; a booklet which describes the history, structure and activities of the LCCEWA; the creation of an award to be presented to a member of the community who has made a significant contribution to ending woman abuse; and collaboration in a series of articles on violence against women which ran in the London Free Press.

Through the process of getting small tasks done, the committee has developed savvy political strategies which aid it in accomplishing its goal of affecting political change as well as responding to the needs of abused women. For example, when a prominent public figure in London made an inappropriate comment about women, the committee developed a "push and pull" strategy where one committee member, publicly voiced her objection to the comment and asked for a public apology. This sent a clear message to the official and the community that women are to be respected and taken seriously like any other member of the community. A week later, another member of the committee called the official and inquired as to how he may be able to support the efforts of the committee as a way to build bridges rather than perpetuate a divisiveness which clearly had lead to harmful statements about women. This move opened the door for both the official and the committee to begin working on education specifically aimed at this official's profession.

Sometimes, in these cases, the committee will have a male member make a public statement to communicate the message that woman abuse is not just a woman's issue, but rather a community one.

Other activities such as promoting and assisting in a series of violence prevention initiatives for use by local Boards of Education and the delivery of workshops on woman abuse to public and professional groups reveal that the committee's focus is as much prevention-oriented as it is a response to the needs of abused women. A gender-sensitive analysis of violence argues for the co-existence of both approaches to respond to women's short-term need for protection and their long-term need for equality to prevent their vulnerability to crime. The LCCEWA is obviously meeting both of these needs.

Cost issues. Not noted

Evaluation. The report states that one of the primary reasons the LCCEWA has been successful in its response to survivors of woman abuse is because it has developed a consensual philosophy based on factoring gender into its base principles for service delivery. These principles were adopted by the full membership in June 1992 and are based on a philosophy "...which analyzes the historical and structural basis of power, control and sexist socialization as expressed and enforced by the crime of woman abuse." The committee recognizes that: social structures have contributed to the long-term, negative effects of (woman abuse) and these same social structures contribute to the barriers experienced by women in their quest for services and justice. The committee hopes that "by addressing power, control and sexist socialization within the service framework it will help end this abuse and revictimization."

The principles reflect the major components of a gender-sensitive analysis: namely, that violence against women is often minimized, denied and/or trivialized; women are more vulnerable to abuse and have few actual or perceived options to ensure their personal safety; and violence against women is more likely to occur in intimate relationships and is perpetuated by men.

Selected Sources

1. *Building Safer Communities for Women - Municipal and Community Strategies to Reduce Violence Against Women*. Report by the Federation of Canadian Municipalities.

3. BRITISH COLUMBIA ASSOCIATION OF SPECIALIZED VICTIM ASSISTANCE & COUNSELLING PROGRAMS (CANADA)

The following information was obtained from the 1996 - 1997 Annual Report of the British Columbia Association of Specialized Victim Assistance & Counselling Programs. It provides information about the organization and its initiatives.

Synopsis.

Description. The annual General Report 1996 1997 provides information on the work done by the B.C. Association of Specialised Victim Assistance & Counselling Programs as follows:
The following are some projects and initiatives we have been working on this year:

The Records Management Project - Part IV. This is a project taken on by our Association and funded wholly by the Ministry of Women's Equality to develop a set of Records Management Guidelines for agencies who manage Sexual Assault Centres, Stopping the Violence Counselling Programs, Transition Houses and Specialized Victim Assistance Programs. We worked in partnership with the BC/Yukon Society of Transition Houses (BC/YSTH), the Ministry of Attorney General, the Ministry of Health, the Ministry of Social Services, and the Ministry of Women's Equality. The Association also developed and distributed a series of discussion papers regarding the O'Connor case as it proceeded through the courts to keep agency staff informed of the implications for women who have been victimized.

OTC Response. This is an initiative taken on and coordinated by our Association, in partnership with the BC/YSTH and funded by the Ministry of Women' s Equality to develop a paper for the Transition Commissioner regarding the potential options for shifting the social service delivery system as it relates to services to children within women's and victim services.

Multilateral Task Force. Coordinated by the Community Social Services Employers Association (CSSEA) with representatives from each social service sector, colleges and universities, this task force enhanced ways to allow for more career laddering and better coordinated curriculum development across sectors. Our Association attends these meetings to bring the voice of those who work in Stopping the Violence Counselling Programs, sexual assault/woman assault centres and Specialized Victim Assistance Programs.

Development of Occupational Competencies. This is a project that evolved through the Multilateral Task Force to identify and develop clear occupational competencies that will provide a sound basis for reviewing, modifying and/or developing new curriculums. Also, to explore a range of training and development opportunities for new and experienced practitioners and improving the practice of practitioners across the Province. Our Association was asked, and has taken on the task of chairing and administering the work of the women's and victim services sector (including: sexual assault/woman assault centres, the Stopping the Violence Counselling Programs, Specialized Victim Assistance Programs and Transition Houses).

Contract Reform. This is an initiative of the Provincial Government that is meant to ease the process of Government contracting with community services. The Association has attended numerous meetings to review draft administrative standards and central contracts to ensure the voice of victim services are represented at the "table".

Fundraising Company Development Feasibility. This project was taken on by the Association and funded by Status of Women Canada and the Canadian Women's Foundation to study the feasibility of starting a non-profit fundraising company in BC that could, for example, conduct professional telephone solicitation fundraising campaigns for stopping the violence against women services in the Province. A Steering Committee recently formed and will lead a province-wide discussion about the possibilities.

Board Training Project. The Association was funded by the Ministry of Women's Equality to develop training for Board members in agencies that have Stopping the Violence Counselling Programs, sexual assault/woman assault centres and Specialized Victim Assistance Programs.

Sexual Assault Policy. This initiative was coordinated by the Ministry of Attorney General to develop BC's first Sexual Assault Policy. Our Association is integrally involved through membership on the Sexual Assault Policy

Inter-ministerial Committee. The Committee advised the policy development process as to the real experiences of women and workers in the area of sexual assault, and the areas where the work of police and Crown could be enhanced to better serve those in our Province who have been sexually victimized.

Stopping the Violence (STV) Counsellor Training Review Project. This review process was funded by the Ministry of Women's Equality and completed through a partnership between the Association and the Justice Institute of BC. The review was of the 1993 Fifteen Day Curriculum for Stopping the Violence Counsellors in relation to its current relevancy and its compatibility with the Counselling Practice Guidelines.

Counselling Practice Guidelines. This project was coordinated by the Ministry of Women's Equality, with representation on the Steering Committee by our Association, as well as, counsellors in STV Programs housed in Specialized Victim Assistance Programs, Women's Centres and Transition Houses, to create counselling practice guidelines to enhance the work of practitioners in these programs.

Drug and Alcohol Training Event. The Association developed a specialized training event for STV Counsellors and others who provide sexual violence counselling. The training developed and/or enhanced an effective knowledge base for counsellors to work with women who may have issues relating both to sexual violence and abuse of drugs and/or alcohol. We also mailed out an information package provided by the training facilitator, giving more information on the issues.

Management Training for Women Serving Organizations. This initiative is advocated by our Association to develop training that would enhance the current Board Training and provide managers in the women and victim serving organizations with the expertise needed in such areas as human resources management, labour relations, organizational development, change management, financial management, clinical supervision, etc. Our Association has played a critical role thus far in the development of the needs assessment study and continues to be advocating for work in this area.

Safer Campuses Initiative. Coordinated by the Ministry of Women's Equality, this initiative is to develop and fund programs and policies throughout university and college campuses to better ensure positive movement on the issues of safety, accessibility and equality. We filled a key role in advising the committee of issues related to violence against women and we also advised on proposed policy and program appropriateness.

Policy Manual Project. Funded by the Ministry of Attorney General, the Association developed a generic policy manual for Specialized Victim Assistance Programs, sexual assault/woman assault centres and Stopping the Violence Counselling Programs in order to assist these programs in advancing practices.

Victim Assistance Core Training. Our Association represents victim assistance based programs on the AG Training Committee. This past year we have filled a vital role in shaping the new fifteen day core training for managers. We have provided actual training at the sessions, as well as, providing critical input and editing of the curriculums through their development.

BC Association of Specialized Victim Assistance & Counselling Programs Newsletter. This communication tool is developed and distributed quarterly by the Association to all our members and related government representatives. The newsletter provides readers with information about current legislation, policy and reform initiatives, profiles the work of the Ministry of Attorney General and the Ministry of Women's Equality, as well as, other topical items.

Conference Planning. The Association played an integral role in the development and coordination of last year's Ministry of Attorney General sponsored Victim Assistance Conference and is involved in the initial discussions regarding the possibility of a Victim Assistance Conference next year.

Restorative Justice. Our Association has taken the lead in this Province in coordinating the development of a thorough discussion paper outlining for women and victim serving organizations what Restorative Justice is. The paper also provides an overview of potential reforms planned for BC. The paper also outlines for Government the kinds of concerns we have from the perspective of women and other people who have been victimized. We are currently in the process of closely consulting with Government regarding their reforms and are planning on publishing a second draft of the paper, incorporating feedback and input from service providers across the Province.

Implementation details. Prior to the existence of the BC Association of Specialized Victim Assistance &

Counselling Programs (BCASVACP), the BC Ministry of Attorney General used to provide $5,750 per year that supplemented other federal Secretary of State funding, in order that the existing 7 sexual assault centres throughout the Province could meet and discuss current issues, provide training specific to specialized programs, and share information on statistics, services, and fundraising. This included problem-solving on issues such as staff shortages, vicarious traumatization and isolation. The sexual assault centres began discussions about forming an Association to meet their needs and the needs of the many other specialized victim assistance programs for networking, mentoring and accessing vital information.

A Secretary of State grant enabled a cross section of individuals from sexual assault centres and other specialized victim assistance programs to meet, consult and formally assess the feasibility of establishing a Provincial Association. There already were similar provincial entities in place to coordinate and represent police based victim assistance programs, women's centres, and transition houses. However, to this point, sexual assault centres and other specialized victim assistance programs in BC had no networking, supportive, coordinating body. Thus, individual centres were all struggling in isolation to solve the same problems and create policies for the same issues.

In March of 1992, the BC Association of Specialized Victim Assistance & Counselling Programs arose from the rounding general meeting at which 22 of a potential 32 program agencies across the province joined the Association. The following goals were established:

1. To serve the needs of victims of violence in BC through support, training, education and information exchange for staff and volunteers of specialized victim assistance programs and the provision of support to service providers.

2. To provide a forum to educate, train and exchange ideas in the areas of victim rights, victim compensation, victim fights legislation, counselling for individuals who have been traumatized by victimization and the results of victimization.

3. To educate the public on the needs and rights of victims of violence, particularly women and children who are victims of child physical and sexual abuse; wife assault; sexual assault; and adult survivors of child sexual abuse.

4. To develop and maintain standards for the provision of service to victims, salaries and caseloads for staff, and other guidelines that assure quality of service and work.

5. To act as a catalyst for social change at the individual, institutional and political levels.

6. To alleviate the political and geographical isolation of victim assistance agencies in BC.

7. To provide better service to clients and increase the choices, access to and quantity of victim services.

8. To reduce the incidence of violence and reduce the stigmatization of victims of violence.

9. To take an active stance against oppression in our society and within ourselves.

10. To consider oppressed groups within all our undertakings and consult with them regarding their needs.

With its inception, the Association established a provincial voice for women, children and others who are victims of violence. It created a network of communication between all programs in the province and it established a link with government and policy makers to strengthen and enhance the effectiveness of all specialized victim assistance programs in BC.

In the fall of 1992, the number of specialized victim assistance programs that qualified for membership with the Association had grown from 32 to more than 50 programs, with the addition of new sexual assault/woman assault centres and other specialized victim assistance programs. All these programs focus on issues of sexual assault, woman assault, child sexual abuse, and/or adult survivors of child sexual abuse.

In October of 1994, at the Annual General Meeting, the membership voted unanimously to expand its membership criteria to allow Stopping the Violence (STV) Counselling Programs to become members. It had been proposed, that

because the STV Programs provide non-residential counselling services to survivors of sexual assault, childhood sexual abuse and/or wife assault, that they closely fit with the types of agencies that the Association was founded to represent.

Cost issues. In April of 1992, the Association applied to the Ministries of Attorney General, Women's Equality, Social Services, and Health for core and project funding. Only the Ministry of Attorney General replied with an agreement to provide 28% of the core funding request, which amounted to $37,500 per year. This amount was meant to cover the executive coordinator, support staff, office supplies, telephone, fax, information distribution costs, Board meeting costs, and other related expenses. All these needs could not be met by $37,500.

Resource person or organization to contact for further information

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& Counselling Programs
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Coordinating Consultant
Tel: 250-995-2166
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Selected sources

1. B.C. Association of Specialized Victim Assistance & Counselling Programs Annual Report 1996 -1997.

4. ONE STOP CENTRES (MALAYSIA)

This information is taken from a paper presented at the WHO / FIGO Pre-Congress Workshop on Elimination of Violence Against Women: In Search of Solutions, Copenhagen, 30-31 July 1997 by Ivy Josiah from the Women's Aid Organization in Malaysia.

Text.

The One Stop Centre: Inter Agency Management of Battered Women at Hospital Kuala Lumpur

Stage one:

On arrival, the patient is triaged by a medical assistant and will be then examined by the doctor.
The doctor will:

a) Perform a careful physical examination and treat life-threatening injuries immediately.
b) Refer the case to the relevant medical/surgical/orthopaedic/psychiatric medical officer on call if the patient needs immediate treatment.
c) Document the interview and supporting physical examination, as well as lab and radiological investigation, in the special clerking sheet for domestic violence.
d) When the need arises as in the case of a very severe case of physical trauma, forensic pathology assessment and documentation for court purposes is advised with informed signed consent from the victim.
e) Assess the probability of serious injury if the woman returns home. The doctor should consider the following:

i) Seriousness of the current injury and the type of weapon that was used.
ii) Suicidal or homicidal thoughts on the part of the abused woman.
iii) Methods the woman is able to use to protect herself and children from future assaults, including the presence of supportive (and protective) family and friends.

Stage 2

a) The victim is referred and seen by counsellor on duty within 24 hours in a separate examination room which is conducive and confidential. The counsellors on duty will include medical social workers and volunteer counsellors from women's groups.
b) If the victim will be in danger by returning home, the doctor or counsellor should arrange for her go to an emergency shelter or admit her for twenty four 24 hours in the A & E ward.

c) The counsellor will help to relieve the victim's emotional trauma, explain and guide the victim on services available to her at the hospital and from other agencies. If the patient chooses not to seek shelter she is encouraged to return to the hospital to see the social worker based at the hospital for further counselling.
d) A police report is encouraged and the patient can make the report at the police unit based in the hospital. In case of severe injury, the police will see the patient in the ward to record her statement and start investigations.
e) The medical report which may be necessary for further police action will be available to the patient without any charges.
f) Treatment for drug and alcohol abuse will also be available to the patient.

Stage 3
Monthly meetings will be held by the committee made up of the A & E Department, Medical Social Workers Department and volunteer counsellors from the women's groups to conduct case studies of patients which were identified as domestic violence victims.

Description. In 1993 Hospital Kuala Lumpur , the largest government run general hospital in Malaysia took a leading role in establishing an intervention programme to respond to the growing number of women who sought medical treatment for injuries sustained as a result of domestic violence. Recognizing the medical, social and legal needs of these women and the importance of women's organisations , a One Stop Centre: an inter agency management of battered women, was established in 1993 in the Accident & Emergency (A & E) Department of Hospital Kuala Lumpur.

The Health Sector in Malaysia
The health care system in Malaysia under the supervision of the Ministry of Health consists of 14 general hospitals, (one in each State), 86 district hospitals and over 200 health centres and is possibly one of best in the region. Not unlike other countries the health sector in Malaysia has been traditionally slow in responding to women who seek medical treatment as a result of domestic violence.

Between 1990 and 1992 while conducting research for the WAO national survey on domestic violence, interviews were conducted with thirty -seven hospital personnel from three major hospitals including Hospital Kuala Lumpur. This research, found that there were no specific policies, procedures or report formats aimed at identifying women who have been assaulted by their husbands or intimate partners. In addition, it was learned that the classification system of hospital case records did not include the specific problem of battering. Battering was usually included in the category of marital discord.

Thus WAO's experience with the health sector has been limited to the care of women who have been referred to the organisation's refuge by medical social workers. Occasionally a medical practitioner may request that a WAO social worker speak to one of his or her patients identified as a domestic violence victim.

Since the opening of its Refuge in 1982, WAO has built up a good relationship with the nearest hospital, Hospital University. This hospital is a teaching hospital under the Ministry of Education and offers refuge residents free medical treatment and maternity services.

Based on a survey, it was proposed that a crisis intervention team involving the joint efforts of the hospital, relevant women's groups, the police, the Medical Social Workers Department, Legal Aid and the Islamic Religious Bureau. The proposed protocol was called: An INTER-AGENCY MANAGEMENT OF THE BATTERED WOMEN. The coordination and centralisation of medical, counselling, police, legal services (the latter from both civil and syariah or Islamic religious courts) would be based on a one stop centre concept.

Implementation details. The participation of women's groups in the activation of the protocol was crucial as it allowed them to give a feminist perspective to its development. Initial responses by the hospital staff, medical social workers and police were far from satisfactory. Their attitude ranged from a welfare response such as let's manage this unfortunate group of people, to complete insensitivity to the victim. Medical personnel viewed the issue clinically with a focus on the physical injuries, not the social and personal ramifications. Problems with confidentiality, sexist bias and misinformation were apparent when dealing with medical personnel. Representatives from the women's groups had to raise these issues of concern during the meetings and managed to conduct gender sensitization programmes for the hospital staff.

Monthly case management meetings between the counsellors from women's groups and A & E doctors and nurses also gave ample opportunity for the women's groups to sensitise and educate medical personnel on the dynamics of violence against women as a gender issue.

In December of 1993 a seminar was organised to invite response and feedback from the relevant agencies on the protocol developed in June 1993. The aim was also to officially announce the protocol and lobby for it to be established and replicated in other state and district hospitals. Although the response was encouraging, it was noted that for the protocol to be instituted in all government hospitals in Malaysia, a directive from the Ministry of Health would have to be issued.

Between 1994 -1996 while the protocol was fully adopted at Hospital Kuala Lumpur with a management committee made up of the three women's groups: WAO, AWAM, Tenaganita, and the A & E department staff, there did not appear to be any move towards adopting the protocol in other hospitals. Only in 1996 did the Minister of Health announce that One Stop Centres would be instituted in every state hospital

This was in response to a memorandum produced by AWAM in 1996 for inclusion at the annual Health Dialogue organised by the Ministry of Health. This policy decision was followed by assigning to the Department of Medical Services Development within the Ministry of Health, the task of introducing the protocol in every state and district hospital.

Soon after the announcement, the A & E department of the General Hospital in Pulau Pinang, a state in northern Malaysia launched its One Stop Centre. To date, of the fourteen general hospitals, three general hospitals, including the pioneering Hospital Kuala Lumpur have adopted the One Stop Centre: Inter Agency Management of Battered Women protocol. In September 1997, the A & E department of Hospital Kuala Lumpur will organise a national seminar to evaluate the protocol

Challenges Ahead

The adoption of this protocol nation-wide will mainstream the issue of domestic violence within the health sector. Women's groups have welcomed this progressive move but are also aware that there is a need to monitor the implementation of this protocol.

Some of the present and anticipated problems are as follows:

1. Lack of volunteers from women's groups to be on call at the One Stop Centres

Hospital Kuala Lumpur where human resources of the women's groups were severely strained when on call twenty four hours, volunteer counsellors from WAO & AWAM (the third group Tenaganita stopped volunteering in 1996) are only on call if there is an emergency and when a medical social worker is unavailable. There is a need for the hospital itself to expand the Medical Social Workers Department so that it does not depend on volunteer counsellors.

2. Lack of shelters for battered women.

The three general hospitals in each state that has adopted the protocol can rely on only three shelters run by women's groups existing in the three particular states. The lack of shelters for battered women in the country poses a problem especially as other state hospitals start identifying domestic violence victims. Where will they send their patients for shelter? WAO has typically received women from other states, as much as 22% of the women seeking shelter come from outside of the state where WAO is based. This can be a problem as the police from one state cannot take action and investigate a case from another state. This restriction includes state social service support. Each of the A & E Department together with women's groups of each state will have to lobby the government to open or fund shelters in their respective states. .

3. Gender training and sensitization programmes

This is a crucial component in order to fully implement the protocol. As experienced at Hospital Kuala Lumpur, the lack of sensitivity and abundant prejudice and misinformation on domestic violence by medical personnel was, and still is worrying. Presently WAO and AWAM are working with the hospital to put together a handbook for medical personnel on counselling battered women. More importantly, all medical personnel including health officials from the Ministry need to undergo a gender training programme. In fact the reformation of the medical education curriculum is necessary in order that all health professionals are acquainted with the dimensions and causes of violence against women. Medical training must not only heighten clinical awareness but include a non-sexist medical response.

4. Privatisation of government hospitals
Women's groups will have to keep a close watch on the recent move to private health care in Malaysia in order to see if the protocol will be affected. As privatisation will stress profit making, the protocol based at the emergency centers of the hospital may be seen as a drain on human resources and finances.

Conclusion
The response of the Accident & Emergency Department at one hospital in Malaysia to the needs of battered women in 1993 and the ensuing involvement - women's groups confirm that networking and strategic links between the health sector and women's organisations is negotiable and viable. The women's movement in Malaysia as in other countries has as its primary objective the empowerment of women so that they may have control and access to resources and live a safe and independent life. The One Stop Centre: an interagency management of battered women is a start.

Cost issues. Not noted

Evaluation. Not noted

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3. Rahidah Abdullah; Raj-Hashim, Rita; Gabriel. 1995. Battered Women in Malaysia: Prevalence, Problems and Public Attitudes: A summary report of Women's Aid Organisation Malaysia's National Research on Domestic Violence. Kuala Lumpur

4. Dr. Mr. Abu Hassan Asaari Abdullah. 1995 Sensitivity to battered women: hospital based interagency crisis services. Arrows for Change, Vol. 1. No. 3 December 1995. pp 3-4.

5. CRISIS AND COUNSELLING SERVICES HELP & SHELTER (GUYANA)

This extract comes from the 1995 Annual Report for the Help & Shelter organisation.

Synopsis.

Description. Help & Shelter is a non-partisan non-governmental organisation which was established in November 1994 with the objective "to provide subsidised or free assistance to persons who, faced with domestic violence or other social, socio-economic or personal problems, are in danger of having their need for help unmet because of poverty and lack of means".

In June 1994, the directors of the Georgetown Legal Aid Clinic had given permission for a legal aid support group spearheaded by businesswoman Denise Dias to use 2 of the offices in the Clinic's premises at Maraj Building, Georgetown, for the purpose of providing social services complementary to the legal services offered by the Clinic.

The group was particularly concerned about the high incidence of violence, alcoholism and poverty in Guyana, the increase in family instability and decrease in family support resulting from the increase in emigration and the lack of help available to persons wishing to leave abusive situations and/or needing counselling and crisis services.

The group operated informally on an ad hoc basis until November 1994, when, with the prospect of a sizeable donation being obtained, it was decided to incorporate under the name Help & Shelter Ltd.

Within the overall object stated above, the establishment of a crisis and counselling service, including a crisis line, for people in distress and of a shelter for abused women and their children were made the first two goals of the organisation.

The Structure and Functioning of Held & Shelter

Help & Shelter is a company limited by guarantee. It is run by a board of directors which reaches decisions by majority with the chair having a casting vote if necessary. The directors meet at least once a month but in some months have met as many as 5 times in order to deal with the heavy work load involved in getting a new organisation off the ground. All the directors work on an entirely voluntary basis.

In November, a Certificate of Continuation of the company under the Companies Act, 1991 was obtained and in December the company changed its full name from Help & Shelter Ltd. to Help & Shelter Inc. and adopted new by-laws.

Early on in the year, the rounding members of Help & Shelter, mindful of the problems that can be caused by having a large but inactive membership, decided that rather than opening membership to anyone wishing to join, it would be restricted to people who had demonstrated active commitment to the organisation. In November all committee members were invited to join and it is proposed that in the near future a similar invitation will be extended to those volunteer counsellors who completed the recently held training course.

Throughout the year Help & Shelter has been involved in collaboration with a number of women's groups, agencies and individuals, all of whom gave their time on a voluntary basis.

The Crisis & Counselling Service

Our goal was to establish a service to provide counselling to people unable to afford it, crisis counselling to people in emergency situations and generally to help people in distress. It was envisaged that the service would assist both people coming into the office and calling a crisis line and that a core of volunteers would be trained to give counselling.

A meeting with interested persons was held in February to discuss the establishment of a core of volunteer counsellors, at which it was agreed that it was necessary to employ someone to coordinate the service to be provided. A coordinator was employed in May and in the same month a weekend training workshop took place, attended by 42 persons who had responded to our notice in the newspapers. This was followed by a 3 month long weekend training course from September to December, which was run by the training committee and during which a number of resource persons gave of their time. At the end of the course 34 volunteers were awarded certificates of participation.

From June to December the service, although not officially opened, operated on an ad hoc basis, with clients being given assistance directly or referred to other organisations and agencies. The service was officially launched on the occasion of International Day Against Violence Against Women on 25 November, with a function attended by representatives of donor agencies and other supporters and addressed by Justice of Appeal Desiree Bernard. In December volunteer counsellors were on call on a roster basis.

From January 1996, it is intended that the service get into full swing, with pairs of volunteer counsellors being available at the office on a roster basis every weekday between 8am and 6pm, to counsel clients face to face or over the telephone, accompany them to the police, hospital and/or court and generally give support. Existing volunteer counsellors will be given ongoing supervision and training, and training will also be given to new volunteers.

It is hoped that the single telephone line which now serves both administrative and counselling purposes will be joined by at least one more line, which will then be available for counselling only, and that call forwarding facilities will be introduced by GT&T to enable the crisis line to operate on a 24 hour basis.

With the coming into full operation of the service, the need for accommodation larger than the 2 small rooms at present occupied courtesy of the Georgetown Legal Aid Clinic (which is itself in need of additional space) has become apparent. It is hoped that more spacious premises can be found very shortly as cramped conditions will inevitably limit the efficacy of the service.

Help & Shelter was fortunate in receiving funding to enable the establishment of the service from a number of sources. UNICEF gave a grant of $473,000 for training, resource material and a 6 month salary bridge for the coordinator; CIDA gave a grant of $971,543 for office equipment and supplies, resource material, training, preparation of a referral directory and a 6 month salary bridge for a secretary and the British Partnership Scheme approved funding of $1,181,490 for office equipment, resource material, training and a public awareness campaign.

The Shelter

The goal is to establish and run a shelter for abused women and their children, where they can stay for a maximum of 6 months, receive counselling and learn skills to protect themselves and their children from abuse and to take them toward self-sufficiency and economic independence.

The proposed location of the shelter was identified shortly after the organisation was established, with the Government indicating its willingness to make a gift of the land and building to us. Caribbean Management and Engineering Consultants Limited volunteered engineering and quantity surveying services.

The state of the building was such that we were advised that it be demolished and a new building be erected. Preliminary plans were prepared following site visits and discussions and following further discussions these were amended and final plans and bills of quantities prepared. It is proposed that the building be able to accommodate 10 women and their children (for whom schooling will be arranged). Apart from a resident housekeeper, staff will be kept to a minimum as the women will be expected to look after their children and do the cooking, washing, cleaning etc. The remaining land space will be used for growing fruits and vegetables and rearing fish and chickens. The compound will be surrounded by a high, fortified wall, as security will be of the essence.

It is hoped that the formalities of the gift of the property by the Government will be completed early in the new year and that construction will commence before mid-year. Applications for funding have been made to Futures Fund and SIMAP and it is hoped that other donor agencies and service and business organisations will assist with donations of furniture, fittings and equipment.

Evaluation. Not noted

Resource person or organization to contact for further information

Josephine Whitehead
Ministry of Labour Annexe
Bottom Flat Homestretch Avenue
Georgetown, Guyana, South America
Telephone 592 2 54731
FAX 592 2 70472 67809

Selected sources

1. Help & Shelter Annual Report. 1995.

6. RAPE CRISIS CENTRE TUKINAINEN (FINLAND)

Rape Crisis Centre Tukinainen was founded in 1993 by Unioni, the League of Finnish Feminists. Tukinainen was and still is the only support centre in Finland specialized in issues of sexual violence. Tukinainen started out as a three year project but is going to be established firmly from the beginning of 1999. The following text was summarized from the Rape Crisis Centre Tukinainen Fact Sheet.

Synopsis

Description. The aims of the project are to: give therapeutic and judicial help for victims of sexual violence; establish a model for crisis work with victims of sexual violence; work for making the phenomena of sexual violence visible in Finland; influence attitudes towards victims of sexual violence and influence legislation and professional practices to the benefits of victims. All workers are female professionals who attend regular supervision groups and are trained to stand by the survivor in the acute phase of the crisis.

Implementation details. The centre offers help with as low threshold as possible, with services being free to all clients, including the on-call lines. Our therapeutic services include: on-call line; therapeutic groups and crisis counselling for all age groups, especially teenage girls. Our legal advice includes: on-call line juridical advice, meetings with lawyers, and the understanding that we do not pressure our clients to report to the police.
Other areas of involvement include being very active in media and working closely with other NGO's and social service agencies. We also offer supervision, training and consultation to professionals.

Cost issues. Funding was mainly provided by RAY - The Slot Machine Association

Evaluation. Not noted

Resource person or organization to contact for further information
Unioni, The League of Finnish Feminists
Helsinki, Finland

Selected sources
1. Rape Crisis Centre Tukinainen Fact Sheet

7. AUTONOMOUS WOMEN'S CENTRE AGAINST SEXUAL VIOLENCE (SERBIA) (TO BE ADDED)

8. CULTURAL CENTRE FOR BLACK WOMEN (BRAZIL) (TO BE ADDED)

9. CENTRE FOR TREATMENT AND PREVENTION OF DOMESTIC VIOLENCE (CHILE) (TO BE ADDED)

VI. Health and Social Services

(C) SUBSTANCE ABUSE PROGRAMS

Section 11(c) of the Model Strategies urges Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes, to design and sponsor programmes to caution against alcohol and substance abuse, given the frequent presence of alcohol and substance abuse in incidents of violence against women.

Examples of Promising Practices Relating to Substance Abuse Programs

TO BE ADDED

VI. Health and Social Services

(D) MEDICAL-JUSTICE SYSTEM LINKAGES

Section 11(d) of the Model Strategies urges Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations,

including organizations seeking women's equality, and research institutes, to establish, as appropriate, better linkages between medical services, both private and emergency, and criminal justice agencies for purposes of reporting, recording and responding to acts of violence against women.

Examples of Promising Practices Relating to Medical-Justice Linkages:

1. HOSPITAL PROTOCOL FOR IDENTIFYING AND TREATING BATTERED WOMEN: BOSTON HOSPITAL PROTOCOL (UNITED STATES OF AMERICA)

2. PROCEDURE FOR IDENTIFYING AND TREATING DOMESTIC VIOLENCE: BEAUMONT HOSPITAL PROCEDURE (IRELAND) .....

3. ONE STOP CENTRE MALAYSIA - PROTOCOLS FOR HOSPITAL PERSONNEL: "INTERAGENCY NETWORKING FOR THE MANAGEMENT OF BATTERED WOMEN" (MALAYSIA) .....

4. SEXUAL ASSAULT: VICTIM SERVICE WORKER HANDBOOK 1993: VICTIM ASSISTANCE PROGRAM: MINISTRY OF ATTORNEY GENERAL (CANADA) .....

1. HOSPITAL PROTOCOL FOR IDENTIFYING AND TREATING BATTERED WOMEN: BOSTON HOSPITAL PROTOCOL (UNITED STATES OF AMERICA)

The following text, summarized from a *Vis-à-Vis* article on *The Role of the Hospital*, provides information about the procedure used by Boston Hospital staff for identifying and responding to the needs of women who have experienced violence.

Synopsis

Description. Brigham and Women's Hospital in Boston, Massachusetts has developed and implemented a hospital protocol for identifying and treating battered women. The hospital based its protocol on experience it gained through its program for victims of sexual assault. The protocol is unique in that it intervenes at a moment of crisis when the woman is most vulnerable. The program intends to help the injured woman to identify herself as a victim of battering and to provide an opportunity for her to explore her resources and options to end the abuse.

Battered women receive medical treatment for their physical injuries, but no assistance to help them deal with violence itself even when they come to the hospital for violence-related injuries again and again. Health care professionals, among the first to recognize and deal with the problems of child abuse, have been slow to identify and help the battered wife. These professionals need to acquire skills and develop programs to deal with battered women.

Implementation details. A multi-disciplinary committee, chaired by the nursing coordinator for ambulatory and emergency services, was made up of nursing, social service and emergency service staff. The committee reviewed and discussed current literature about the problem, met with community and social service groups and developed a protocol for the identification, care and referral of battered women. At the same time, the social services department established a 24-hour trauma unit and gave workshops and seminars for professionals and lay groups A brochure was developed on the hospital program and local community services for battered women, and staff members became involved in non-hospital committees on family violence. However, it is the therapeutic intervention in the emergency room that is at the heart of the Brigham program.

Although many women may suffer severe injuries, most commonly the battered woman who comes to the hospital emergency service has suffered bruises and contusions but is not critically injured. Although a doctor or nurse may identify her as a victim of family violence, she may not identify herself as such to them. Although she may be thinking only of getting medical treatment for the immediate problem, the period of crisis mobilizes the battered woman to reconsider her situation and to accept new interpretations or offers of help that she might previously have rejected. Thus, the first responses to the battered woman are very important.

When the woman enters the Brigham emergency service and is asked why she wishes to be seen, she frequently says she has had some kind of accident. The hospital secretarial staff has been trained to pick up on cues that may indicate battering and to alert a nurse immediately when battering is suspected. The examining nurse may be the first person to raise the issue of abuse with the victim. The nurse assures the woman she will be helped, and if the battering is admitted, offers the services of a counsellor. If she denies the battering or refuses the counsellor, she is told help is available to her in the future and how and where to call to talk to someone. Usually, however, the victim agrees to talk to a staff social worker.

The social worker consults with medical personnel so that the extent of the victim's injuries, the treatment and medical history is known. The social worker then discusses the incident with the victim and attempts to determine her domestic situation, her emotional state and needs, and the natural support systems which may be available to her. The social worker will help the woman determine if she can return to her own home, whether she has other possibilities for shelter, or will help arrange for a short-term shelter and protection for the woman and her children once she leaves the hospital The social worker also advises the woman on her legal rights and assists her in obtaining legal assistance if she req0ires it. The hospital will also arrange for the woman to have photographs taken in order to document visible injuries for court purposes, if the woman wishes.

The social worker encourages the victim to review her situation, the impact of the violence on her own well-being and that of her children, and the financial, social, legal and emotional resources she may have or need. A final review of her plans when she leaves the hospital allows the social worker to help the battered woman to use her own and the community resources to end the battering.

Cost issues. Not noted

Evaluation. Not noted

Resource person or organization to contact for further information
National Clearinghouse on Family Violence
Health & Welfare Canada
Ottawa, Ontario, Canada K1A 1B5

Selected sources
1. *The Role of the Hospital.* Vis-à-Vis. Spring 1984 v.2 n.2

2. PROCEDURE FOR IDENTIFYING AND TREATING DOMESTIC VIOLENCE: BEAUMONT HOSPITAL PROCEDURE (IRELAND)

The following excerpt outlines the procedure for identifying and treating who have experienced violence practised by the Beaumont Hospital in Ireland.

Synopsis

Extract from the text:
The Accident and Emergency Department of Beaumont Hospital has developed a procedure for identifying and responding to the needs of women who have experienced violence. It is important that the following recommendations are implemented:

- *A medical social work service to be available on a 24 hour basis, seven days a week to respond to cases of domestic violence;*
- All permanent medical/nursing staff should undergo training;
- Non medical staff i.e. receptionists and administrators should also undertake training; Training should take place outside of the hospital setting and staff should be given time off work for training;

- Training should be on-going, with regular evaluations on the implementation of the domestic violence policy;
- A community based support system for women who have been subjected to domestic violence should be established. This would include an outreach service and counsellors who are specifically trained in domestic violence. The absence of a support system at community level is a major gap in service provision. For some women the only way of accessing counselling is to be referred to the psychiatric services which are inappropriate as women subjected to violence become defined in psychiatric terms.

3. ONE STOP CENTRE MALAYSIA - PROTOCOLS FOR HOSPITAL PERSONNEL: "INTERAGENCY NETWORKING FOR THE MANAGEMENT OF BATTERED WOMEN" (MALAYSIA)

This extract is from The Health Sector Working Women's Organisations: A case study (1997); Ivy Josiah Women's Aid Organization.

Synopsis.

In 1994, a protocol called Inter-agency Networking for the Management of Battered Women i.e. a One Stop Crisis Centre, was established for victims seeking treatment and all forms of help. The protocol called for co-operation between the hospital, women's groups, the Legal Aid Bureau, the police, the Islamic religious department and the state social welfare department. For the first time, a specific policy and procedures to provide services to the women were introduced and implemented. For example, procedures were developed to identify battered women and document details of the injuries, the number of recurring battering socio-economic data and current management of each department, which treats women. Also, a rape investigation kit was developed laying down the medical procedures to collect evidence. Previously, many cases failed at court level because of insufficient or contaminated evidence.

Between 1994-1996 whilst the protocol was fully adopted at Kuala Lumpur General Hospital, there did not appear to be any move towards adopting the protocol in other hospitals. Only in 1996 did the Minister of Health announce that One Stop Centres would be instituted in every state hospital in response to a memorandum produced by the AWAM for inclusion at the annual Health Dialogue organised by the Ministry of Heath. As of 1997, 14 general hospitals and 3 district hospitals have adopted the protocol.

Resource person or organization to contact for further information

Ivy N. Josiah
Women's Aid Organization
P.O. Box 493 Jalan Sultan
46760 Petaling Jaya
Selangor, Malaysia
e-mail: ivyj@p.c.jaring.my

Selected sources

1. Ivy Josiah, Ivy N. The Health Sector Working Women's Organisations: A case study (1997).

4. SEXUAL ASSAULT: VICTIM SERVICE WORKER HANDBOOK 1993: VICTIM ASSISTANCE PROGRAM : MINISTRY OF ATTORNEY GENERAL (CANADA)

This information is taken from the Sexual Assault: Victim Service Worker Handbook.

Synopsis.

<u>The medical examination</u>

In the examining room the woman will be asked to undress and put on a hospital gown. If forensic evidence is being taken, and if the woman is wearing the same clothing she was wearing at the time of the sexual assault, the police may want her clothing. It may not be returned until much later and may be damaged from testing. Any loss or

damage to clothing may be compensated for by criminal injury compensation (see Section 7.6).

The hospital will provide a night gown, dressing gown, and slippers. Remember that it is a good idea for the woman to bring extra clothes to the hospital or to have someone bring them for her. Some agencies have sweatshirt outfits donated by local businesses and stored at the hospital for women who need something to go home in.

The medical examination has four parts: History; Physical Examination; Collection of Specimens -- Forensic Medical Examination; Prevention of Pregnancy and Disease. Each part is described here in detail.

History

The doctor will ask the woman for the following information:

- medical background: any current medical problems; medications being taken; allergies (especially to penicillin)
- menstrual history: last normal period; any menstrual abnormality
- recent sexual history: type of contraceptive normally used; time of last consenting intercourse; whether a condom was used at that time
- gynecological history: previous and current pregnancies; any previous vaginal or pelvic surgery; any signs or symptoms of gynecological abnormalities prior to attack; any previous gynecological conditions, such as a sexually transmitted disease

While it is not necessary for the doctor to record a detailed account of the assault (the police will do this), the doctor will need any information that may help diagnose and treat injuries. He or she may ask:

- When and where did the assault occur?
- Were you injured or knocked unconscious?
- Were any restraints used and, if so, what types?

The doctor will need detailed information about the nature of the sexual assault. He or she may ask:

- What sexual acts were performed?
- Did ejaculation occur?
- Was a condom used?
- Was any type of blunt or sharp instrument forced into the rectum or vagina?

The doctor will also ask the woman whether or not she has douched, bathed, gargled, urinated, or changed clothes since the attack. Any of these acts may destroy evidence and it is important that you tell the woman this before you go to the hospital.

Physical Examination

The physician will perform a general physical examination, paying special attention to any possible trauma and noting such things as bruises, cuts, areas of tenderness, broken fingernails, and foreign material under the fingernails. The physician will note the emotional state of the woman and in cases where she wants charges pressed will note any evidence of intoxication or drug use. Internal examinations will be done of any body orifices Involved In the assault.

Collection of Specimens - Forensic Medical Examination

A forensic medical examination will be done if the woman requests or consents to it. This involves the collection of legal evidence. The hospital will usually have a special rape or sexual assault evidence kit that contains forms for documenting suspected sexual assault cases, plus all the specimen containers required to collect legal evidence. Some or all of the following specimens will be taken.

A culture from the vagina. This is used to test for the presence of sperm and for an enzyme called prostatic acid phosphatase. Acid phosphatase is present in large amounts in semen and is more reliable than sperm testing for the following reasons: (1) the assailant may be aspermatic (producing no sperm) due to previous diseases (mumps or gonorrhea) or he may have had a vasectomy; (2) motile sperm tests are reliable for only 12 hours (average time of sperm motility), whereas acid phosphatase is a sensitive indicator for sexual intercourse for up to 48 hours.

Note: Sexual dysfunction is common during sexual assault attempts and many of these tests are negative for both sperm and acid phosphatase. It is not necessary to prove ejaculation to prosecute someone on sexual assault charges.

Pubic hair combing and loose hairs. A few strands of the woman's pubic hair are plucked and saved along with any loose hairs that may have come from the assailant. The laboratory can tell if the hair is animal or human, what portion of the body it originated from, whether or not the hair was forcibly removed, and if the hair came from a caucasian, negroid, or oriental person. The laboratory can say only that the hair is “similar” to that of the person assaulted or the person arrested.

A blood sample. This is used for blood grouping and syphilis testing.

A saliva sample. About 80% of individuals secrete blood group antigens in body fluids (including saliva. sweat, semen, and vaginal secretions), which may assist in the identification of the assailant.

Swabs for culture. A special swab for chlamydia (sexually transmitted bacteria) may be taken from all appropriate areas.

Fingernail scrapings. Skin or blood samples from the assailant may be found in these scrapings. Specimens of clothing or fibre. These can be used to check for the source of the material and for the presence of blood or semen.

A drug screen. This is needed if the woman thinks she has been drugged.

A pregnancy test. A blood test may be used to determine whether the woman is pregnant as a result of the assault. If the woman suspects that she might already be pregnant a urine test may be used to confirm pregnancy.
Photographs may also be taken at the request of the police at the police station or in the emergency room. The police must take any photographs themselves after receiving written consent from the survivor. Great care must be taken to be sensitive to the woman's trauma and emotional needs at this time.

Prevention of Pregnancy and Disease
The doctor may recommend treatment for possible sexually transmitted disease and for pregnancy. Any or all of the following may occur.

Treatment for pregnancy. In order to prevent pregnancy, the woman may be treated with the “morning after” pill. The treatment consists of four pills, two of which are given initially, with the remaining two pills taken after a 12-hour interval. The high dose of estrogen in the pill alters the lining of the uterus and should prevent pregnancy if taken within 72 hours of intercourse. These pills should not be taken if there is any question about whether the woman is pregnant already.
The woman should have a follow-up pregnancy test in six weeks if she misses her menstrual period. A menstrual period will normally occur two to three weeks after treatment.
The woman should be told that some women experience side effects from these pills. Nausea or break-through bleeding may occur and are not considered serious side effects. If vomiting occurs within one hour of the dose, the dose should be repeated. Taking food with each dose may minimize nausea.

Treatment for gonorrhea. It is estimated that up to 5% of all women who have been sexually assaulted get some form of sexually transmitted disease as a result of the sexual assault and for this reason the woman be should be treated as though she has contracted gonorrhea. Unless she is allergic to penicillin. she will be given a large dose of oral ampicillin and probenecid in the emergency department. If she is allergic to penicillin, she will usually be given tetracycline for seven days. She should have a follow-up test approximately one week later.
Symptoms of gonorrhea can develop in one day to. two weeks and include vaginal discharge, unusual odour, an uncomfortable sensation in the urethra (perhaps itching or irritation), and frequent urination. The woman should report any of these symptoms to a doctor or public health nurse.

Treatment for syphilis. Syphilis occurs in only about 0.1% of sexual assault cases. The first sign of syphilis is a painless open sore which often goes unnoticed in women and may not appear for up to 30 days. The woman should have a follow-up blood sample taken in three to six weeks in any case.

Treatment for tetanus. A tetanus toxoid update may be given if the woman has an open wound or any cuts.

Treatment for hepatitis B. In some hospitals. doctors may recommend an HBG vaccination against hepatitis B. This vaccination needs a follow-up shot in approximately three weeks.

Testing for genital herpes. The chance of getting genital herpes is slight. It has a two to twenty day incubation period, but most symptoms develop about one week after contact. The lesions are like cold sores that appear in the genital area. A swab of these lesions is used to diagnose herpes. There is no cure for herpes. If the woman suspects that she has herpes or any other sexually transmitted disease, she should contact her doctor or the nearest sexually transmitted disease centre for diagnosis and treatment.

Testing for HIV/AIDS. If a woman requests an HIV/AIDS test, she should have one 3 to 6 months after the sexual assault.

(Adapted from unpublished training material developed by Susan Street, R.N.B.S.N., for instruction at Victoria Women's Sexual Assault Centre, Volunteer Training, 1988.)

Sexual assault assessment service record
The sexual assault assessment service record form is filled out by the examining doctor. A sample of the form used by one hospital in British Columbia is reproduced on the next two pages.

Resource person or organization to contact for further information
Ministry of Attorney General of British Columbia
Victoria, British Columbia, Canada

Selected sources
1. Sexual Assault: Victim Service Worker Handbook. Ministry of Attorney General of British Columbia. 1993.

VI. Health and Social Services

(E) MODEL PROCEDURES

Section 11(e) of the Model Strategies urges Member States to develop model procedures to help participants in the criminal justice system to deal with women subjected to violence.

Examples of Promising Practices Relating to Model Procedures:

1. DOMESTIC VIOLENCE POLICY CHECKLIST (UNITED STATES OF AMERICA).....

1. DOMESTIC VIOLENCE POLICY CHECKLIST (UNITED STATES OF AMERICA)

This checklist comes from the Domestic Abuse Intervention Project in Duluth. This checklist is designed to aid agencies in examining the extent to which their domestic violence policies organize workers to think about and act on these unique criminal cases effectively.

Synopsis

Extract from text. Does your policy cover:

1. What practitioners do under what circumstances
2. Guidelines to sort cases into appropriate levels of response
3. Methods to ensure practitioners' compliance (tracking)
4. How to make an exception to policy
5. How to document actions, designating what information to include on relevant forms to decrease reliance on memory and to improve completeness of case information
6. With whom and how to share information on a case and link with others.

Does your policy:

1. Focus on changing the institution, not the victim
2. Balance need to standardize institutional response and need to address particulars of a case
3. Encourage a response built on cooperative relationship particulars with others who also intervene in these cases
4. Focus on institutional practices
5. Build in methods of ensuring compliance with policy while permitting responsible exercise of discretion
6. Link practitioners to those beyond the next worker in the system
7. Account for offenders' level of danger
8. Assume victims will be vulnerable to consequences if they participate in confronting offenders
9. Assume offenders are likely to batter in future relationships
10. Document pattern and history of abuse when and wherever possible

Does your policy account for how:
1. Legal or institutional categories help and hinder understanding of the case
2. Practitioners will resist or circumvent the intent of the policy
3. Offenders will circumvent the intent of the policy
4. The policy/response will be used against victims of battering
5. Different levels of dangerousness and risk require different levels of response
6. Punishment/sanction will impact offenders and victims
7. Rehabilitation/programming can used against victims
8. Non-intervention will affect offenders and victims
9. Victims use violence against their abusers
10. The speed of response will impact victim safety
11. Children are affected by violence
12. Offenders can use children to control victim
13. Institution sends double messages about children's exposure to violence

Does your policy...
1. Account for different impacts of interventions depending on social status of victims and/or offenders
2. Standardize procedures that focus on safety (i.e., sentencing matrix, policy report form, control log, dispatching screen)

Resource person or organization to contact for further information
Domestic Abuse Intervention Project
206 West Fourth Street
Duluth, MN 55806
Tel: 218-722-2781

VI. Health and Social Services

(F) SPECIALIZED UNITS

Section 11(f) of the Model Strategies urges Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes, as appropriate, to establish, where possible, specialized units with persons from relevant disciplines especially trained to deal with the complexities and victim sensitivities involved in cases of violence against women.

Examples of Promising Practices Relating to Specialized Units

1. RAPE REPORTING CENTRES: HILLBROW AND NEWCASTLE (SOUTH AFRICA) .....

2. WOMEN AND CHILDREN PROTECTION UNITS WITHIN THE NAMIBIAN MINISTRY OF HOME AFFAIRS (NAMIBIA) – *TO BE ADDED*

1. RAPE REPORTING CENTRES: HILLBROW AND NEWCASTLE (SOUTH AFRICA)

The following excerpt from "Domestic Violence in South Africa: Pioneering State Efforts" provides information about two rape reporting Centres in South Africa, how they were implemented and the challenges they faced until they ceased to exist.

Synopsis.

Implementation details.
Hillbrow Rape Reporting Centre

In November 1994, a centralized sexual offenses centre run by the South African Police Service was established in inner city Johannesburg. The Hillbrow Rape Reporting Centre was set up due in large part to the efforts of district surgeon, Dr. Lorna Martin, in conjunction with the organization of People Opposing Women Abuse (POWA). Existing police and medical staff responsibilities were reorganized requiring no extra staff to be hired. The aim of the centre was to ensure that reporting of rape was less traumatic while offering social and psychological support. In addition to taking statements related tot the charge, the centre provided immediate medical examinations and counselling to raped women. Women who came to the centre could file a charge, get a medical exam and take a bath at the centre before leaving. Medical forensic samples were taken by a district surgeon and women were referred to social workers and psychologists for counselling. An information pamphlet for rape survivors was produced by the centre. Raped women could also obtain HIV tests and take pregnancy prevention pills. The centre was staffed by trained female police officers twenty-four hours a day. Doctors who examine rape survivors are issued a protocol book produced by the centre which outlines the steps which doctors should take in conducting the examination.

Newcastle Crisis Centre

A similar initiative, the Newcastle Crisis Centre, was established in KwaZulu-Natal in January 1994. Human Rights Watch did not have the opportunity to visit the centre, but was provided with a copy of the December 1994 "Progress Report" by police headquarters in Pretoria. The Crisis Centre aims to provide a complete service to women victims of all types of violence, whether family violence or rape by a stranger, by coordinating the responses of various state departments and the nongovernmental sector. A room has been set aside at the casualty department of the hospital where medical examinations of rape and violence survivors may be carried out. Local Business were persuaded to assist in funding the project, and local state agencies, including social workers, doctors, psychologists, nurses and police officers were motivated to draw up a working document setting out their role in the centre. A workshop for twenty-eight female police officers was held, to sensitize them to their role, and guidelines were issued to all police, including radio control room staff, in how to handle domestic violence or rape cases. Abused women may contact the centre directly or be referred by the police or another agency. The choice of reporting to the police or laying a charge is left to the woman , after her options have been explained, and she will be referred also to victim support agencies.

Evaluation.

Hillbrow Rape Reporting Centre

The centre dealt with an average of three sexual assaults a day. In December 1994, the centre received seventy-five rape cases and sixteen child abuse cases. In January 1995, forty-five rape cases and nine child abuse cases were reported. As Sargeant Avril Davis, a police officer working at the centre, said: "These figures are horrifying when one considers that we only deal with rapes reported in the inner-city and northern suburbs, and that most sexual assaults are not reported". Disappointingly, however, Human Rights Watch has learned that this encouraging initiative has largely collapsed. Internal disagreements within the police resulted in insufficient personnel being available to staff the centre on a full-time basis, and on occasion the district surgeon would have to call round the two police stations involved to find out which officer should be on duty. Attempts to resolve the problems have largely failed, and all the full-time centre has been replaced by two dedicated female police officers from Hillbrow police station, who carry pagers on a twenty-four hour basis.

Newcastle Crisis Centre

Initiatives such as the Newcastle Crisis Centre frequently do not receive the funding or support that they deserve. A rape trauma centre was set up in Durban in August 1994, but was abandoned after three months because of financial difficulties. Women's organizations contend that had it been a priority, money would have been found. Attempts were made for three years to set up a special unit for rape victims by a police major, Lynette Prinslow, who believed that rape victims were not getting treated properly in regular charge offices. She attempted to set up a unit to provide compassionate police treatment and referral services for counselling as well as workshops to educate women on avoiding rape and protecting themselves. The centre was closed in October 1994.

Cost issues. Not noted

Selected sources

1. Domestic Violence in South Africa: Pioneering State Efforts

2. WOMEN AND CHILDREN PROTECTION UNITS WITHIN THE NAMIBIAN MINISTRY OF HOME AFFAIRS (NAMIBIA) (TO BE ADDED)

VII. TRAINING

Section 12 of the Model Strategies urges Member States, as appropriate:

(a) To provide to police and other criminal justice officials mandatory cross-cultural and gender-sensitivity training that deals with the unacceptability of violence against women, its impact and consequences, and that promote as adequate response to the issue of violence against women;

(b) To ensure adequate training, sensitivity and education of police and criminal justice officials, regarding all relevant human rights instrument;

(c) To encourage professional associations to develop enforceable standards of practice and behaviour for practitioners involved in the criminal justice system, which promote justice and equality for women.

Examples of Promising Practices Relating to Training:

1. TRAINING FOR POLICE: U.S. DEPARTMENT OF JUSTICE: OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (UNITED STATES OF AMERICA) .....

2. A MANUAL ON HUMAN RIGHTS TRAINING FOR THE POLICE DEVELOPED BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, CENTRE FOR HUMAN RIGHTS (SWITZERLAND).....

3. GUIDELINES FOR POLICE TRAINING ON VIOLENCE AGAINST WOMEN AND CHILD SEXUAL ABUSE BY THE COMMONWEALTH SECRETARIAT (UNITED KINGDOM).....

4. STOP VIOLENCE AGAINST WOMEN FORMULA GRANTS PROGRAM, US DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS: VIOLENCE AGAINST WOMEN GRANTS OFFICE (UNITED STATES OF AMERICA) .....

5. MANDATORY JUDICIAL EDUCATION (UNITED STATES OF AMERICA) .....

6. TRAINING REGARDING VIOLENCE AGAINST WOMEN IN RELATIONSHIPS (CANADA).....

7. NEW YORK PROSECUTORS GAIN ON-LINE ACCESS TO LITIGATION DOCUMENTS (UNITED STATES OF AMERICA).....

8. OVERHEADS FOR DOMESTIC VIOLENCE TRAINING CURRICULUM (UNITED STATES OF AMERICA) .....

9. STOPPING THE VIOLENCE: A SAFER FUTURE FOR B.C. WOMEN. THE BRITISH COLUMBIA GOVERNMENT'S SPENDING ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN (CANADA) .....

10. TRAINING BULLETIN FOR POLICE, VANCOUVER POLICE DEPARTMENT (CANADA) .....

11. TRAINING FOR THE JUDICIARY: COUNCIL OF EUROPE (COUNCIL OF EUROPE).....

12. BUENOS AIRES PROVINCIAL COUNCIL FOR THE WOMEN OF THE PROVINCES (ARGENTINA) - *TO BE ADDED*

13. MUSASA PROJECT POLICE TRAINING MATERIALS (ZIMBABWE) - *TO BE ADDED*

14. ILANUD REGIONAL TRAINING PROGRAM AGAINST DOMESTIC VIOLENCE (LATIN AMERICA) - *TO BE ADDED*

1. TRAINING FOR POLICE: U.S. DEPARTMENT OF JUSTICE: OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (UNITED STATES OF AMERICA)

The Office of Community Oriented Policing Services (COPS) at the U.S. Department of Justice offers domestic violence training to police officers whose departments are recipients of the COPS Domestic Violence grant. Synopsis below taken from the April/May 1997 issue (No. 6) of *Community Cops* - a bimonthly newsletter produced by the Office of Community Oriented Policing Services for COPS grantees.

Synopsis

The COPS Office is planning four training and technical assistance sessions for Community Policing to Combat Domestic Violence grant recipients. The purpose of these sessions, which will be hosted by Boston, Tampa, San Diego and Phoenix, is to provide assistance implementing the Domestic Violence grant and to help sustain these programs after Federal funding has ended.

Under the Domestic Violence grant program, each applicant selected one of the following categories: problem solving, training or organization. To address the special needs of each of these areas, the three sessions in Boston, Tampa and San Diego will highlight problem solving, while the Phoenix conference will focus on training and organizational change. The core curriculum, which will be the same for all sites, consists of panels on problem solving, partnerships, and networking and resources to help departments support domestic violence programs. For the problem-solving sessions, specific workshops will address repeat offenders, collaborative interagency partnerships, and solving and investigating cases with an unwilling witness. The training and organizational change workshops will target academy training, multidisciplinary training, and changing your organization to strategically incorporate domestic violence into your community policing plan.

On the third day of each session, participants will select two electives from any of the panels. Also on this day, the host cities will be given an opportunity to showcase their domestic violence efforts. The COPS Office chose these four cities because of their exemplary efforts combating domestic violence. Participants will tour local facilities, hear from local community activists and witness firsthand the successful programs in the host cities.

Each participant will be assigned to a team with their project partner. The teams will remain the same throughout the session to encourage the development of in-depth, unique discussions.

Resource person or organization to contact for further information
U.S. Department of Justice
Office of Community Oriented Policing Services
1100 Vermont Ave., NW
Washington, DC 20530
web site at www.usdoj.gov/cops/
1-800421-6770

Selected sources
1. Community Cops: The bimonthly newsletter for COPS grantees (No. 6, April/May 1997)

2. A MANUAL ON HUMAN RIGHTS TRAINING FOR THE POLICE DEVELOPED BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, CENTRE FOR HUMAN RIGHTS (UNITED NATIONS)

A reference manual for police regarding the lawful and humane performance of their duties in a democratic society. It contains hundreds of relevant standards, uses common language and is drawn from more than 30 international sources. The extract is taken from “Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police” (as cited below).

Extract from manual

This manual is one component of a three-part package of materials for human rights training for police. The police training package also includes a loose-leaf trainer's guide, and a pocket book of human rights standards for police. The three components of the package are designed to complement each other, and, taken together, provide all necessary elements for the conduct of human rights training programmes for law enforcement officials, under the approach developed by the United Nations High Commissioner for Human Rights/Centre for Human Rights.

This Manual (Component One of the package) provides in-depth information on sources, systems and standards for human rights in law enforcement, along with practical guidance, and annexed international instruments.

The Trainer's Guide (Component Two of the package) provides instructions and tips for trainers, additional exercises, and sample training tools, such as overhead transparencies, to be used in concert with the manual in conducting police training courses.

The Pocket Book of standards (Component Three of the package) is designed to be a readily accessible and portable reference for law enforcement officers, containing hundreds of pointform standards, organized according to police duties, functions and topics, and referenced with detailed endnotes.

The table of contents cover:

Part One: Training law enforcement officials--Policy and practice
Chapter I. APPROACH OF THE UNITED NATIONS HIGH COMMISSIONER/CENTRE FOR HUMAN RIGHTS TO POLICE TRAINING
Chapter II. PARTICIPANTS IN TRAINING PROGRAMMES
Chapter III. EFFECTIVE TRAINING TECHNIQUES
Chapter IV EDUCATORS AND TRAINERS
Chapter V USING THE MANUAL
Chapter VI FORMAT AND CONTENT OF COURSES

Part Two. Fundamental concepts
Chapter VII SOURCES, SYSTEMS AND STANDARDS FOR HUMAN RIGHTS IN LAW ENFORCEMENT
Chapter VIII ETHICAL AND LEGAL POLICE CONDUCT
Chapter IX POLICING IN DEMOCRACIES
Chapter X POLICE AND NON-DISCRIMINATION

Part Three. Police duties and functions
Chapter XI POLICE INVESTIGATIONS
Chapter XII ARREST
Chapter XIII DETENTION
Chapter XIV USE OF FORCE AND FIREARMS
Chapter XV CIVIL DISORDER, STATES OF EMERGENCY AND ARMED CONFLICTS

Part Four. Groups requiring special protection or treatment
Chapter XVI POLICE AND THE PROTECTION OF JUVENILES
Chapter XVII LAW ENFORCEMENT AND THE RIGHTS OF WOMEN
Chapter XVIII REFUGEES AND NON-NATIONALS
Chapter XIX PROTECTION AND REDRESS FOR VICTIMS

Part Five. Matters of command, management and control
Chapter XX HUMAN RIGHTS IN POLICE COMMAND, MANAGEMENT AND ORGANIZATION
Chapter XXI INVESTIGATING POLICE VIOLATIONS

STATEMENT OF OBJECTIVES

This manual, the approach contained herein, and the courses offered in accordance with that approach are intended:

(a) To provide information on international human fights standards relevant to the work of police;

(b) To encourage the development of skills, and the formulation and application of policies, necessary to transform that information into practical behaviour;

(c) To sensitize participants to their particular role in promoting and protecting human rights, and to their own potential for affecting human rights in their daily work;
(d) To reinforce law enforcement officials' respect for, and faith in, human dignity and fundamental human rights;
(e) To encourage and reinforce an ethos of legality, and of compliance with international human rights standards, within law enforcement agencies;'
(f) To assist law enforcement agencies and individual law enforcement officials in providing effective policing through compliance with international human rights standards;
(g) To equip police educators and trainers to provide human rights education and training for law enforcement officials.

The intended principal beneficiaries are: Police trainers and training institutions; National police officials, whether civilian or military; Civilian police (CIVPOL) components of United Nations peace-keeping operations.

Resource person or organization to contact for further information
The High Commissioner of Human Rights / Centre for Human Rights
United Nations, 1211 Geneva 10,
Switzerland

Selected sources
1. Human Rights and Law Enforcement: A Manual on Human Rights Training for the Police
Professional Training Series, No. 5, United Nations, 1997, 439pp.
ISBN 92-1-154121-2

3. GUIDELINES FOR POLICE TRAINING ON VIOLENCE AGAINST WOMEN AND CHILD SEXUAL ABUSE BY THE COMMONWEALTH SECRETARIAT (UNITED KINGDOM)

This manual, developed following a pan-Commonwealth Police Training Workshop on Violence against Women and Child Sexual Abuse held in June 1988, provides guidelines for police in dealing with, and responding to, victims of violence. It also adds to the general knowledge and understanding of violence against women and child sexual abuse issues. Training modules (Canadian and British), as examples of possible training approaches for police are also included in the manual. The extract is taken from “Guidelines for Police Training on Violence Against Women and Child Sexual Abuse” (as cited below).

Extract

INTRODUCTION
All regions of the Commonwealth share a common problem: violence against women and children. this violence, which takes various forms - physical, sexual, psychological - although sometimes perpetuated by strangers, is far more frequently inflicted by those with whom women and children should have their most trusting relationships - members of their family, be they husbands, lovers, fathers, brothers, uncles or grandfathers. Research into the causes of this violence, research which is relatively new and which stems, in the main from Britain, the United States, Australia and New Zealand, indicates that much remains to be understood about the nature, causes, extent and treatment of this violence. Research reveals that a major problem exists, but studies are too imprecise to answer important questions such as who is most at risk and how resources can be allocated most effectively. Information with respect to treatment programmes remains fragmentary. Certain types of intervention appears to be effective, but yet more data is required.

Primarily, the solution to the problems of both domestic violence and child sexual assault has been seen in terms of legal intervention. Here, the role of the police has been regarded as crucial, it being the only agency offering a combination of the coercive power of the state and accusibility. Indeed, in many countries the only service available to battered women, for example, twenty-four hours a day and seven days a week, apart from hospital accidental units

is the police. Moreover, unlike other social services, the police force offers an emergency telephone system and comprehensive geographical coverage.

Although the role of the police is critical, research which exists suggests that police response to domestic violence and child sexual assault is often inadequate. The reasons for this are various. First, the police underestimate the incidence of these abuses. Second, police are reluctant to intervene in what they are led to regard as "domestic problems". This can be for various reasons: out of respect for the privacy of the family, because of a mistaken vision of marital rights, because they believe the victim has "provoked" the violence, because they do not foresee a successful prosecution and, finally, because the police prefer to treat domestic crimes differently from crimes in other contexts, responding by mediation rather than law enforcement.

There is no doubt that the police role in the management of domestic violence and child sexual assault is ambiguous and the task very difficult. Much of the ambiguity and difficulty arises from conflicts within the rest of society and the entire legal system which all combine to underestimate and trivialise the abuses, removing them from the preview of the criminal system, relegating them to a ragbag of "social problems"

Ultimately, these ambiguities and difficulties will be removed only when all societies totally condemn wife and child abuse. In the short run, however, police management can be improved with adequate and new legal powers of entry, arrest and bail and well defined police policies which provide the individual operational officer with clear protocols to govern his or her response to the issue.

Police response will not, however, ever be adequate in the absence of proper training. Although domestic assault and child sexual abuse makes up a large proportion of police work and although the work is unpleasant, difficult, sometimes dangerous and always stressful for officers, very few jurisdictions provide specific and adequate training to equip them for this task. It was in the light of this that the Women and Development Programme (NDP) of the Commonwealth Secretariat which mandated by Commonwealth Ministers for Women's Affairs at their meetings in 1985 and 1987, views violence against women as a priority area for action, in June 1988 called together senior police officers -in the main, Commissioners of Police and Senior Assistant Commissioners - from sixteen Commonwealth countries, representing the four regions of the Commonwealth to address the question of police training on violence against woman and child sexual abuse.

This Manual represents a compilation of the deliberations of the Workshop, it being the hope of WDP that it will assist police forces throughout the Commonwealth in their training programmes and techniques.

How to Use the Manual

The Manual addresses the six issues discussed at the meeting and is thus divided into the following sections:

1. Police attitudes and sensitisation
2. Perspectives on offender profiling
3. Evidence and investigation techniques
4. Medical and forensic evidence procedures
5. Liaison with non-police organisations and referral agencies
6. Statistics, data collection and case management.

Each section summarises the discussions of the Police Training Workshop on the particular issue. Some issues were discussed following a specific presentation on the issue and where this is the case, the presentation has been included. Some, on the other hand, were discussed generally. The discussion of each issue raised specific recommendations, while a series of general recommendations, which participants felt were of paramount importance in the training of all and any police force in the Commonwealth, emerged during the course of the workshop. The general and specific recommendations appear as "Guidelines" in the Manual. The "Guidelines", however, do not claim to be exhaustive and are to be viewed in the context of each particular jurisdiction. The Manual, further, includes training modules used in police training in Great Britain and Canada. These have been included, not as models, but rather as examples of approaches to training that particular jurisdictions may wish to consider in the preparation of their own country and culture specific training packages. The Manual also includes in Appendix 1 two background papers which discuss the role of the police in domestic crime and finally, in Appendix 2 a number of country reports which highlight the fact that each Commonwealth jurisdiction, although showing the same problems of wife abuse and child sexual assault, have differing concerns and constraints.

GUIDELINES FOR POLICE TRAINING GENERAL RECOMMENDATIONS

* The issues of domestic violence, sexual assaults on women and child sexual abuse are acknowledged as serious problems which require priority attention.

* Sensitisation of police in dealing with these crimes is essential and must include an assessment of stereotypical attitudes to women and children, particularly with regard to sexual activity.

* The crucial role of the police in dealing with the crimes of domestic violence, sexual assaults on women and child sexual abuse must be acknowledged both by the police themselves and society in general.

* The police must be provided with clear legal powers in order to provide them with an appropriate base for action. Countries must to assess their laws in order to determine whether they provide the police with adequate powers.

* Laws in all their forms and legal procedures must be assessed and reviewed in order to achieve systemisation and coherence.

* The importance of inter-disciplinary cooperation in dealing with reports of violence in the family, sexual abuse of women and child sexual abuse must be emphasised. This approach can be achieved in a number of ways, appropriate to the country's socio-economic and cultural contexts.

An inter-disciplinary approach could:
- be established as committees at varying levels
- consist of committees typically comprising;
    - senior police
    - welfare officers
    - psychiatrists
    - medically qualified persons
    - legal individuals

aim to:

monitor the legal system
initiate reform where appropriate
suggest establishment of such levels committees at lower/higher

* Clear lines of responsibility and accountability must exist within the structure of a multi-disciplinary approach.

* The mass media, in all its forms, must be fully utilised in both public education of the issues and in shaping social attitudes.

* The protection of women and children who are at risk from family violence, and from sexual and other abuses must be ensured. This should include the provision of safety, security and basic human needs.

* The exchange of information on police methods and technological know-how should be encouraged between police stations within a country, and between police forces Pan-Commonwealth. Training exchange programmes within and between Commonwealth regions need to be promoted.

* A reporting system needs to be established which will enable health, welfare and education sectors to report on sexual abuse cases (especially child sexual abuse).

* All agencies should keep the victim as a primary focus of concern, particularly bearing in mind the victim’s physical and mental needs. A victim-centred approach:

-will ensure that the victim's privacy is maintained;
-might consider in-camera trials in order to minimise trauma to victims during court trials;
-will ensure that the Press is made accountable;

-will ensure the protection of and maximum security for victims from any confrontation with offenders, be it at court or at an identification parade.

* Public education is an integral part of any strategy to confront violence against women and child sexual abuse. It must be promoted in all possible ways. Public Education is critical to close the gap between legal provision and practice.

* It is important that the police be involved in the promotion of public education programmes. This involvement could take the form of:
-talks to interest groups at various levels;
-talks to schools and other educational institutions;
-inter-disciplinary seminars and colloquiums;

Resource person or organization to contact for further information
Women and Development Programme
Human Resources Development Group
Commonwealth Secretariat
Marlborough House, Pall Mall
London UK SN1Y 5HX

Selected sources
1.Guidelines for Police Training on Violence Against Women and Child Sexual Abuse
Commonwealth Secretariat, 1988, 165pp.
ISBN 0 85092 425 1 Price: £5.95

4. STOP VIOLENCE AGAINST WOMEN FORMULA GRANTS PROGRAM, US DEPARTMENT OF JUSTICE, OFFICE OF JUSTICE PROGRAMS: VIOLENCE AGAINST WOMEN GRANTS OFFICE (UNITED STATES OF AMERICA)

The S-T-O-P (Services Training Officers Prosecutors) program assists the criminal justice system in responding to the needs and concerns of women who have been, or potentially could be, victimized by violence. In addition to emphasizing the enhanced delivery of services to women victimized by violence, the S-T-O-P program aims to coordinate and integrate law enforcement, prosecution, and judicial efforts, as well as victim services, in the prevention, identification, and response to cases involving violence against women. Extract taken from a program pamphlet published by the Violence Against Women Grants Office, Office of Justice Programs, Washington, D.C.

Extract
Introduction
The S-T-O- P (Services Training Officers Prosecutors) Violence Against Women Formula Grants Program, hereinafter referred to as the S-T-O-P Program, promotes a coordinated, multi-disciplinary approach to improving the criminal justice system's response to violence against women. This approach envisions a partnership among law enforcement, prosecution, the courts, victim advocates, and service providers to ensure victim safety and offender accountability. States and localities are encouraged to restructure and strengthen the criminal justice system’s response to addressing violence against women, drawing on the experience of all participants in the system, including the advocacy community.

Authorized through the Violence Against Women Act, set out in Title IV of the Violent Crime Control and Law Enforcement Act of 1994. Pub. L. 103-322, 108 Stat. 1796, the S.T.O.P Program is administered by the Violence Against Women Grants Office. Office of Justice Programs. U.S. Department of Justice.

Program Eligibility
Eligibility for the formula grants is limited to the States, Territories, and the District of Columbia. Telephone numbers of the designated State administrative agencies are enclosed.

Funds granted to qualified States may be further sub-granted by the State to agencies and programs including. but not limited to, State offices and agencies; public or private non-profit organizations; units of local government; Indian tribal governments; non-profit nongovernmental victim service programs; and legal services programs. States must certify annually that all out-of-pocket costs of forensic medical examinations for victims of sexual assault will be paid by the State, a unit of local government, or another governmental entity. States also must certify annually that victims of domestic violence are exempt from paying the costs associated with filing criminal charges or issuing or serving a warrant, protection order. or witness subpoena in connection with the prosecution of a felony or misdemeanour domestic violence offense.

Program Purposes
Grants and subgrants under the S-T-O-P Program must meet one or more of the following purposes:

1) training law enforcement officers and prosecutors to more effectively identify and respond to domestic violence. sexual assault. and stalking;
2} developing, training, or expanding specialized units of law enforcement officers and prosecutors targeting violent crimes against women;
3) developing and implementing police and prosecution policies, protocols, orders, and services specifically dedicated to preventing, identifying, and responding to violent crimes against women;
4) developing, installing, or expanding data collection and communication systems, including computerized systems that link police, prosecutors, and courts or that are designed to identify and track arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women;
5) developing, enlarging, or strengthening victim service programs: developing or improving delivery of victim services to racial, cultural, ethnic and language minorities, and the disabled: providing specialized domestic violence advocates in courts where a significant number of protection orders are granted: and increasing reporting and reducing attrition rates for cases involving violent crimes against women;
6) developing, enlarging, or strengthening programs addressing stalking; and
7) developing or strengthening programs addressing the needs and circumstances of Indian tribes in addressing violent crimes against women.

Cost issues. Each State must allocate 25 percent of the S-T-O-P Program funds it receives to law enforcement, 25 per-cent to prosecution, and 25 percent to non-profit non governmental victim services. The remaining 25 per-cent may be allocated at the State's discretion within the parameters of the Act.

In addition to the criminal purposes for which the Violence Against Women Act was intended, funding for civil justice assistance is allowable, but it is limited to situations that bear directly and substantially upon criminal justice matters or are inextricably interwoven with criminal justice matters (§818 of the Omnibus Crime Control and Safe Streets Act of 1968 as amended, codified at 42 U.S.C. §3789n). Since it is consistent with the overall intent of the statute, legal assistance to victims attempting to obtain civil protection orders may be supported.

Resource person or organization to contact for further information
Violence Against Women Grants Office
Office of Justice Programs
810 Seventh Street, N.W.
Washington. D.C. 20531
Telephone: (202) 307-6026
Fax: (202) 305-2589
http://www.ojp.usdoj.gov/VAWGO

5. MANDATORY JUDICIAL EDUCATION (UNITED STATES OF AMERICA)

An article which advocates mandatory judicial education regarding domestic violence, with the aim of providing judges with current information and research on family violence issues, and generally improving the judicial response to domestic violence. Excerpt taken from an article in the Albany Law Review (cited below).

Excerpt

Court rules for judicial education should require participation in domestic violence education. One problem in delivering judicial education in the current system is that most domestic violence training programs are voluntary; judges may not be required to receive any judicial education at all, or they may have complete choice as to which courses among the state's offerings they will attend.

California took a lead among the states when it adopted legislation which acknowledged the need for mandatory judicial training regarding family law. The legislation recognized that "more citizens are affected by family law proceedings than any other type of judicial proceedings," and required that the "Judicial Council shall establish judicial training programs for judges, referees, commissioners, mediators, and others who perform duties in family law matters ....

It is the intent of the Legislature that the training program for judges be at least 30 hours per year. In recent years, Texas has also increased its commitment to judicial education by instituting a mandatory program. Each Texas district and county court judge must complete at least eight hours of training within that judge's first term of office. Six of the eight hours must be spent on instruction regarding the following: (1) the availability of community and state resources for counselling and aid to victims; (2) the presence of gender bias in the judicial process; and (3) the dynamics and effects of being a victim of family violence. Judges are excused from such instruction only upon the submission of an affidavit stating that the judge hears no cases involving family violence, sexual assault, or child abuse. New Jersey family court judges, and all other New Jersey judges likely to encounter domestic violence disputes, are similarly required to participate in judicial education. New Jersey's forty hour pro-gram is likened to that required for a victim counsellor and is designed to instruct judges on "information concerning the impact of domestic violence on society, the dynamics of domestic violence, the statutory and case law concerning domestic violence, the necessary elements of a protection order, [and the] policies and procedures as promulgated or ordered by the attorney general or the [New Jersey] Supreme Court.

Even while encouraging judicial education, however, it must be acknowledged that, given judges' lack of accountability, training alone cannot overcome attitudes as retrograde as Judge Cahill's. It is a supreme irony that during the sentencing of Kenneth Peacock, Judge Cahill noted that in less than two weeks he and all the other Maryland judges would be attending a two day judicial education conference on family violence, and that he would be attending with "a great deal of current experience. Another Baltimore County Circuit Judge, Thomas J. Bollinger, was disciplined in 1993 for his remarks in a rape case in which he sentenced to probation a forty-four-year old man who raped his eighteen-year-old employee while she was unconscious from drinking. Part of the discipline the judge received included attendance at a program to sensitize him to rape cases. He refused to attend and has suffered no consequence as a result.

Selected sources

1. “There's No Accounting for Judges”, by Lynn Hecht Schafran, Albany Law Review. 1995 v 58 n 4 pp. 1063-1085.

6. TRAINING REGARDING VIOLENCE AGAINST WOMEN IN RELATIONSHIPS (CANADA)

A training initiative for federal enforcement officers, municipal police, Crown counsel, corrections workers and victim service workers regarding the Violence Against Women in Relationships Policy (VAWIR), introduced by the British Columbian Ministry of the Attorney General in 1993. The excerpt is taken from a background note attached to a paper prepared for a conference on Violence, Abuse and Women’s Citizenship held in Brighton, UK, 1996 (cited below).

Excerpt

The RCMP, Municipal Police, Crown Counsel, corrections workers and victim service workers receive training on the VAWIR Policy. An emphasis is placed on the proactive charge and prosecution aspects of the policy, plus the dynamics of power and control that are inherent in crimes of violence against women in relationships. Victim safety, offender accountability and the dynamics of violence are emphasized in all training.

Training is provided at both a basic and at an enhanced level.

Basic training emphasizes awareness and knowledge and is sector specific (i.e., designed for delivery to either police, Crown Counsel, corrections and victim services).

Enhanced training emphasizes both knowledge and skills, is designed for more experienced justice personnel and delivered on an interdisciplinary basis (i.e., to police, Crown, Corrections and victim services). A team approach to case management is emphasized.

1. BASIC 'CORE' TRAINING:

All Justice Personnel are encouraged to review the video *It's a Crime* which highlights the policy content and rationale and is used in basic training.

The Basic Core Training Curricula for Violence Against Women In Relationships consists of individual learning modules for Victim Service Workers, police, Crown and corrections. Training is delivered by experienced justice personnel.

Basic Core training was offered to all justice system personnel in 1993 as part of a travelling "roadshow'. This training will be repeated in 1998.

(A) Victim Service Worker Training:

Its A Crime video and curriculum includes rationale for the policy and revisions, highlights changes to the policy, impact on service provision, reluctant witnesses, victim impact statements and safety of victim.

(B) Municipal Police Training:

All police are encouraged to review the video *It's a Crime* during Roll-Call training.

Individual detachments manage their own training and development utilizing available curricula and local resources.

Detachments produce training bulletins which members are advised to read e.g. Vancouver Police Department Training Bulletin on Spousal Violence and Intimidation.

(C) Corrections Training, Probation Officers and Family Court Counsellors:

The Corrections Module on the VAWIR policy addresses the following:
Policy Highlights and Implications for Corrections, Community Coordination, Interagency approach to resolving the problem of violence in relationships - the dynamics, its effect on the victim, interviewing skills and ability to screen for violence, Diversion, Victim Notification, Sentencing, Parole Hearings, Supervision, Counselling and Treatment for Assaultive Men, Breaches of Court orders, Pre-Sentence Reports, Role of Family Court Counsellors, Impact of Violence on Children.

Probation: Spousal Assault Risk Assessment Training:

All Probation Officers receive training in the use of the Spouse Assault Risk Assessment Tool (SARA). This tool assists Probation Officers with case management and facilitates the identification of risk factors related to violent behaviour.

(D) Crown Training:

In 1993, the Criminal Justice Conference focused on Violence Against Women in Relationships and included: an overview and rationale for the policy, dynamics on violence against women in relationships, impact on children and effectiveness of proactive policy to arrest and charge offender profiles and effectiveness of treatment, re-victimization of the victim, power and control/cycle of violence, safety of victim, Section 810 of Criminal Code, importance of coordination and use of protocols, witness management and reluctant witnesses, trial preparation, sentencing and probation.

Crown Interviewing and Preparing Reluctant Victims and Witnesses

In 1995 a Video and Self-Study Guide were produced to provide Crown with techniques and strategies to deal effectively with reluctant victim/witnesses during the interview process and at the trial stage. A video dramatization demonstrates an interview, direct examination and cross-examination of a victim/witness who is reluctant to testify against her spouse.

Copies of video and self-study guide are made available to all Crown throughout the Province.

2. RCMP Training:

Recruit/Basic Training in Regina (103 hours):

> Includes awareness of the dynamics of violence against women in relationships, domestic violence, eider abuse, criminal harassment, cycle of violence, spousal assault (RCMP Policy), spousal assault - collaborative approach.

Individual Instruction Modules:

Home study course on violence against women in relationships, covers the law, history and policy, procedures and practice unique to violence against women in relationships cases:

> ***Module*** **f reviews dynamics of violence within families and** between people in close relationships; policies developed to deal with conflicts, serious nature of the problem and changes that have occurred to the Criminal Justice System.
>
> ***Module*** 2 covers the law
>
> ***Module*** *3* provides guidelines to support the policy and the law including interaction with different agencies and the value of a team approach to investigation.

Field Coach Programming:

Once assigned to their postings, cadets are assigned a Field Coach for six months for on the job training. The Field Coach ensures that the cadet is fully oriented to operational policies including VAWIR Policy.

RCMP Advanced Training:

At the 3 - 5 year mark of their careers, RCMP investigators are scheduled to attend an in-service "Investigator Course". This is a two week session at the Vancouver Headquarters and covers:

1/2 day on VAWIR and Family Violence presented by Dr. Steve Hart from UBC.
1/2 day on Criminal Harassment
1/2 day on mentally disturbed offenders
1/2 day on human behaviour.

CD ROM Training Package:

The RCMP Ottawa Training Branch have developed a CD ROM "Family Violence - Not a Private Problem" which includes issues related to family violence. The CD ROM has been distributed to all RCMP detachments and includes indicators of violence such as recent separation, custody and access of children.

Interdisciplinary Training, and "Road Shows":

In 1993, a travelling "mad show" comprised of senior staff from RCMP, Crown Counsel and Victim Services held regional workshops throughout the Province on the VAWIR Policy.

3. Enhanced Investigative and interviewing skills in violence against women in relationships

Two day skill based workshop for senior police and Crown counsel who are involved in investigations and prosecutions related to violence against women in relationships. This training builds on existing knowledge of the psychological and behavioural dynamics of violence against women in relationships and addressees key social, legal and psychological issues that influence or impact the victim interview process. Specific approaches to work with traumatized, resistant and special needs victim/witnesses are practiced.

Upon successful completion of the training, participants will be able to:

-build on existing knowledge about psychological and behavioural dynamics of violence against women in relationships

-apply the changes to the VAWIR policy to their current work

-use improved and enhanced investigative and interview skills to respond to reluctant and resistant witnesses

-apply threat assessment approaches to increase the safety of women and children

-incorporate new approaches to support witnesses from diverse cultures

4. Criminal Harrassment Training (INTERDISCIPLINARY)

One day interdisciplinary training curricula developed for police, Crown Counsel, corrections and victim services focusing on legislation (section 264 amendment to the Criminal Code on Criminal Harassment) investigation (case management and threat assessment), prosecution, victim support and offender typology, using short lectures, case studies and small group discussions.

Upon successful completion of the training, participants will be able to;

-describe the history of criminal harassment legislation in Canada

-identify and describe the essential elements necessary to prove a charge of criminal harassment

-describe investigative strategies and techniques to be used in criminal harassment investigations

-describe the effects of criminal harassment on the victim

-describe statistics relevant to criminal harassment, offender typologies and victim offender profiles

-identify safety tips for victims so that they can incorporate changes into their lives

-explain why some victims may be unwilling to report or proceed with charges

-explain some of the dynamics involved when investigating criminal harassment occurring against people of diverse cultures, people with disabilities and between people of the same gender.

5. Dispatch/Communications/First line responders training

A one day workshop for first responders (police, communications operators, dispatchers and front Line Desk Staff) to inquiries and requests for service. Building on the existing knowledge and experience of first responders, the workshop offers skill building opportunities and knowledge of the services needed by women and others facing violence in current and former relationships. The workshop focuses on the dynamics of violence, power and control, and the needs of victims.

Monitoring Effectiveness of Training

Individual police detachments or departments monitor their own members training to ensure that it is accessible and completed by individual officers. Quality assurance is the responsibility of detachment commanders and includes basic training on the Violence Against Women In Relationships Policy.

As of April 1, 1997, all detachment commanders will report centrally and priorities will be reviewed as they arise. Senior RCMP and police personnel participate on the provincial VAWIR policy implementation committee and are involved in identifying training priorities for RCMP and municipal police in conjunction with justice system personnel.

Local Violence Against Women in Relationships Coordination Committees are instrumental in ensuring that a coordinated approach to violence against women in relationships is followed. Local committees include representatives from the RCMP and or/municipal police and address issues of accountability to the VAWIR policy as well as promoting initiatives to educate committee members, justice system personnel and the public.

Resource person or organization to contact for further information

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302-815 Hornby St.
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Selected sources

1. Background note “Violence Against Women in Relationships Training” to “Implementing a Co-ordinated Criminal Justice Response to Violence Against Women: The British Columbia Model” prepared for the Violence, Abuse & Women’s Citizenship Conference, Brighton, UK, November 1996, by Jane Coombe, Gail Edinger, Larraine Stuart and Inspector Bob Taylor.

7. NEW YORK PROSECUTORS GAIN ON-LINE ACCESS TO LITIGATION DOCUMENTS (UNITED STATES OF AMERICA)

A project, developed with the assistance of the S -T-O- P (Services Training Officers Prosecutors) Violence Against Women Formula Grants Program, designed to assist prosecutors in searching and accessing electronic copies of relevant model legal documents pertaining to domestic violence and sexual assault. The data bank was developed, and is maintained, by the New York Prosecutors Training Institute (NYPTI). Excerpt is taken from a newsletter entitled “Violence Against Women Act News”, published by the US Department of Justice (see sources below).

Excerpt

A generous federal S*T*O*P Violence Against Women subgrant awarded by the New York State Division of Criminal Justice Services has enabled the New York Prosecutors Training Institute (NYPTI) to provide a unique service. NYPTI, a non-profit corporation established in 1995 to serve the training and other mutual assistance needs of New York's 62 elected district attorneys, has linked all of their offices to its centralized computer brief bank maintained in Albany. The scope of the brief bank, previously limited to issues in capital cases, is being expanded through use of the grant to cover domestic violence and sexual assault prosecutions as well.

Using a low-cost computer and proprietary software designed and developed by NYPTI, district attorneys' staff can conduct fully automated searches for relevant model legal documents by preselected categories and sub-categories or keywords. The full text of the models can be viewed and, if applicable to the case being worked on, downloaded directly into the written material being prepared in the local office.

NYPTI obtains its model documents from local prosecutors who are subject-matter specialists. District attorneys' offices in larger jurisdictions with special bureaus devoted to domestic violence and sex crimes provide copies of

subpoenas, search warrants, motions, briefs and memoranda of law, investigative protocols, and information on expert witnesses. NYPTI screens, edits, summarizes, and categorizes these materials for ease of legal research before entering them into the database for retrieval by litigators. A separate expert/witness database will include the expert' s curriculum vitae, as well as transcript excerpts from previous testimony.

The new brief bank is a valuable service because only a few district attorneys' offices maintain computerized files of litigation documents, and most of those are not categorized by subject matter and argument points. The judicial process and victims also benefit from presentation of the most thoroughly researched and reasoned analyses available.

Cost issues
States receive most of their VAWA funding through S*T*O*P Violence Against Women formula grants and, in turn, award competitive subgrants to public and private, state and local entities for domestic violence and sexual assault victim services, training, police, and prosecutors. As of March 1998, more than $411 million had been awarded to states.

Resource person or organization to contact for further information
Violence Against Women Office
United States Department of Justice
Washington, D.C.
Fax: 202-307-3911
http://www.usdoj.gov/vawo

Selected sources
1. Violence Against Women Act NEWS, US Department of Justice, Violence Against Women Office February/March 1998. This newsletter is available via the web site indicated above.

8. OVERHEADS FOR DOMESTIC VIOLENCE TRAINING CURRICULUM (UNITED STATES OF AMERICA)

A 211 page lesson plan (653K) in Portable Document Format (pdf), available on the internet at the website: http://www.telalink.net/~police/abuse/index.htm. This teaching curriculum is designed to assist law enforcement agencies in helping police officers better understand and service the public when dealing with domestic violence in the community. The lesson plan discusses several key areas of domestic violence:

- statistics as they relate to police officers and domestic violence
- traits and characteristics of the offender
- domestic violence pilot projects in North America
- the problems of dual arrest in domestic violence
- policy and procedure in relation to domestic violence legislation
- protection orders and procedural details
- seizure of weapons
- securing evidence for domestic violence cases
- effectiveness on the day of trial
- documenting evidence
- interview techniques
- theoretical role-play as it applies to domestic violence
- specialized interviewing techniques

Resource person or organization to contact for further information
Author: C.R. Smith
Contact person: Sergeant Mark Wynn
10/10/97
http://www.telalink.net/~police/abuse/index.htm

9. STOPPING THE VIOLENCE: A SAFER FUTURE FOR B.C. WOMEN. THE BRITISH COLUMBIA GOVERNMENT'S SPENDING ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN (CANADA)

A booklet which outlines the B.C. government's work to eliminate violence against women. The British Columbia Ministry of Women's Equality, along with six other government ministries, joined forces in 1992, to provide women access to more of the services they need in dealing with violence perpetrated against them. This government initiative is aimed at enhancing existing prevention and intervention services, and establishing services where none exist. It is particularly geared towards responding to the needs of individual communities, including aboriginal ones, and addressing a range of initiatives along a continuum from prevention to intervention. Extract taken from a publication of the Ministry of Women's Equality (cited below).

Extract

Stopping the Violence:

An important part of this commitment is the opportunity. it provides for government to create new and stronger partnerships with service providers in communities throughout the province. Working daily with women who are victims of violence, these service providers built the foundation of services British Columbia has today. Their experience and expertise is essential in helping to create more and better services for B.C. women.

Women with disabilities, women from visible minorities, immigrant women, and other women who face additional barriers will have greater access to the services they need. At the same time, we will be providing additional dollars to aboriginal communities to support the efforts of aboriginal people to eliminate family violence.

Responding to Victims of Violence

Every 17 minutes, a sexual assault involving. forced intercourse occurs in Canada; 90% of victims are female.
During 1990, an average of two women were killed by their partners each week in Canada.
Between 50,000 and 70,000 school-age children in British Columbia are estimated to have witnessed their mothers being beaten.
It is estimated that approximately 300,000 women in British Columbia were sexually assaulted as children.
The National Survey on Abuse of the Elderly in Canada projects that 53 of every 1,000 elderly persons living in private homes in British Columbia are abused.

Local Solutions To Local Needs

All across our province, British Columbians are working hard to stop violence against women. Communities have come together to provide counselling and services to victims of violence and to increase local awareness. This work is vital. and too often these efforts fall short because of inadequate resources and inconsistent funding.

Cost issues. The Ministry of Women's Equality outlined that long-term commitment in the government's first Throne and Budget speeches, beginning this year with S10 million in new money. It is funding that will help expand and establish services for women around the province, and support the efforts of aboriginal peoples to eliminate family violence in their communities. (NB: Since the launch of the Stopping the Violence Initiative in 1992, the province has committed nearly $30 million in new money to create and expand services for women who have experienced violence.)

Most of these dollars will go directly into communities to help provide local solutions to local needs based on the following objectives:

- building a strong and lasting partnership between community groups and government;
- Helping provide counselling services to more women who are victims of violence;
- supporting aboriginal communities in their holistic approach to services that help eliminate family violence;

- making services more accessible to women with disabilities, women from visible minorities, immigrant women and other women who face additional barriers;

- breaking the cycle of violence and power through education training and offender treatment programs

Building Partnerships with Communities

Many service providers are calling for a new meaningful working relationship between community and government. Building that partnership is an important focus of the Ministry of Women's Equality. We recognize that communities know best what their needs are and how best to meet those needs, but they require support and resources to get the job done. The role of the Ministry of Women's Equality is to support communities by providing resources and working together with community agencies to develop and implement policies and deliver services.

Resource person or organization to contact for further information
Ministry of Women's Equality
Province of British Columbia
PO Box 9899 STN PROV GOVT
Victoria, British Columbia, Canada
V8W 9T9
E-mail: info@weq.gov.bc.ca
http://www.weq.gov.bc.ca/

Selected sources
1. Stopping the Violence. A Safer Future for B.C. Women. 1992. Ministry of Women's Equality, Province of British Columbia, Canada. 17pp.

10. TRAINING BULLETIN FOR POLICE, VANCOUVER POLICE DEPARTMENT (CANADA)

A resource bulletin for police officers that outlines recent and ongoing research on violence against women issues, and provides information regarding resources available to officers for effective intervention, investigation, enforcement in cases of family violence. Extract taken from Vancouver Police Department, Training Bulletin (cited below)

Excerpt

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INTRODUCTION

"We found evidence to conclude that the battered woman's terror was appropriate and that her fears that separation would make the violence worse were accurate." (WALKER L.E., THE BATTERED WOMAN SYNDROME STUDY 1981}

Over the past twenty years, the scope of violence against women within relationships has been recognized and various Justice and support service initiatives implemented in an attempt to protect the victims and prevent

reoccurrence. The research strongly suggests that prosecution of the offender has the greatest likelihood of effectively reducing future violence.

The term "Spouse Assault" has been used to describe family violence. This bulletin refers to "Spousal Violence and Intimidation" defined as "any crime or potential crime where the relationship between the suspect and victim is or was: spousal, common-law, or a similar intimate relationship." Crimes such as threatening, B & E, and damage to property are included as they form part of the same cycle of abuse.

Although the terms are gender-neutral, the issue is one of women being physically and/or psychologically abused by their partners - a powerful person abusing a weaker, defenseless person.

The objective of this bulletin is to emphasize the importance of the Department's Spousal Assault Policy, review the recent and ongoing research in this area, and ensure that police personnel are aware of the resources available.

RESEARCH

The following quotes from contemporary research should clarify some issues of spousal violence:

"Those wishing to counteract violence in society should first look to violence in the home". (Fagan et al}.

"Women in these relationships literally are hostages, not free to leave a relationship regardless of the degree of prior abuse. If they do attempt to leave, the lethality potential of the relationship increases dramatically." (Browne, 1988).

"The Canadian Urban Victimization Survey found that separated women were most at risk for assaults by marital partners."

"There is a misconception that child abuse occurs in isolation of other family problems. This is rare. Children of battered women are in a high risk zone. When an adult woman is living in a battering environment, there is reason to suspect that the children in that household are in grave imminent danger; that they can be victims of neglect and physical and emotional abuse. Battered women are in no position to protect their children from being abused by their husbands or companions. A study showed that 45% of the assaults on the battered women were accompanied by similar physical assaults on at least one child." (Roy, M., Children in the Crossfire, 1988)

"The twin themes of power/control and emotional intimacy seemed especially relevant to examining the origins of male rage in interpersonal conflict with a female. Power issues were typically described as the need to control or dominate the female, feelings of powerlessness vis-à-vis the female, and descriptions of female independence as male loss of control. A consistent theme underlying the aggression was a perceived loss of control by the male." {Browning, 1988; Coleman and Straus, 1986; Hamberger and Hastings, 1986).

"Over 40% of the victims report violence occurring weekly or more frequently. Seven percent report daily abuse. Injury is frequent: One third report "occasional" injury and over one fourth report "frequent" injury. Abuse during pregnancy occurred in 44~ of the cases." (Fagan J.A., Stewart D.K., Hanson, K.V., Violent Men or Violent Husbands, 1982.)

"Wife batterers come from all socio-economic groups, all educational levels, and all cultural and ethnic groups. Men continue to batter because no one stops them." {Battered Women's Support Services)

"The National Survey on Family Violence found evidence that men who abuse their wives are much more likely to abuse their children."

"The brainwashing that accompanies family abuse is potent because families are the primary group in which most individuals construct reality. The distortion of reality and self image is generally one of the most devastating effects of family abuse. One result of the psychological manipulation common among all types of family abuse is the tendency among victims to blame themselves. (Finkelhor D., Common Features of Family Abuse.)

"Economic dependency much more than psychological dependency keeps a woman in a severely abusive marriage." {Straus M.A., Ordinary Violence, Child Abuse, and Wife Beating.)

"The data confirm that domestic violence does not come from the interaction of the partners in the relationship, or from provocation from irritating personality traits of the battered woman, but rather from the batterers' learned behavioural responses." (Walker L.E., The Battered Woman Syndrome Study, 1981).

Research by the Vancouver Police Department 1990

A sample month's reports were surveyed and all incidents involving violence or intimidation in the spousal and ex-spousal type of relationship were analyzed.

In 50% of the cases, Reports to Crown Counsel were completed - in accordance with Departmental policy. In 18% of the cases there appeared to be sufficient evidence for a charge to be laid, but the investigating officers allowed the victim "not to lay charges". The remainder of the cases had insufficient evidence for charges to be laid.

Research by the Vancouver Police Department, 1991

A more in-depth study is being conducted to audit the degree of compliance with the policy.

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Profile of a Batterer: Telltale Signs:

1. Jealousy - often imagines wife is having affairs.

2. Tries to isolate and control wife.

3. Jekyll and Hyde personalities.

4. May have other problems with the law.

5. Explosive temper; flies into rage without provocation. May begin by harming property, pets, children before progressing to wife assault.

6. Tells wife it is all her fault; projects own fault onto wife.

7. Verbal assaults (insults, put downs, slanderous names, threats) in addition to physical assault.

8. Comes from family where violence was practiced.

9. May be more violent when wife is pregnant or soon after giving birth.

10. Denies beatings or the severity; seems not to remember.

11. Will do whatever it takes to drive the wife away, then whatever it takes to get her back - grab the kids or apologize profusely, send her flowers, cry real tears, promise anything and they know exactly what she wants to hear: "I'll go to church with you, I'll go to counselling, I'll stop drinking, I'll never hit you again, etc."

12. Once the wife returns, performance is repeated: whatever it takes to drive her away, followed by whatever it takes to get her back.

NOTE:

Most men who assault their wives, confine their violence to the privacy of their own home. The abuse is often directed to particular parts of the body that will not visibly bruise; obvious restraint and forethought is necessary to accomplish this. Violent husbands are not likely to attack their bosses when frustrated.

Perspectives of Victims in London, Ontario

The London Police Department was the first Police Department in Canada to adopt a pro-arrest policy in 1981. In 1990 the Department laid charges in 89% of occurrences involving wife assault.

A study of victims provided the following responses: 74% indicated that the police responded quickly, and 65% indicated that they were satisfied with the advice that they received. Most importantly, 87% said that they would call the police again.

The study found the following concerns:

officers should provide victims with more information related to court process and community services;
- officers should be more understanding;
- charges should have been laid; and
- more protection is required for victims.

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POLICY

The Spouse Assault Police Policy was initially published in 1984, and revised in 1986, and is often described as pro-arrest.

The essential element of the policy is that wife assault, or any crime involving persons engaged or previously engaged in a spousal or intimate relationship, shall be investigated as any other crime - i.e. that when a crime has been committed, the police will act upon reasonable grounds and recommend the appropriate charges to Crown Counsel by way of a RCC.

Every effort should be made to arrest the suspect if the grounds to do so exist. When considering whether to release upon an appearance notice, the fact that wife assault is known to be a recurring offense should be considered.

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THE INVESTIGATION

As in all police investigations, it is critical that the investigating officers determine whether charges are recommended based upon evidence, and not upon the apparent wishes of a victim who is in no emotional condition to make difficult choices.

Investigating officers are often confronted by a calm, rational suspect and a hysterical or emotionally upset victim. It is important to focus the investigation on the alleged crime, and not be diverted to issues such as the current hysterical condition of the victim - a natural human response to being victimized.

An essential part of the investigation is never to allow the victim and suspect to feel that the onus or responsibility for prosecution rests with the victim. To do so guarantees that the victim will be the subject of further abuse and intimidation in order to prevent her from "laying charges" or to "drop the charges". It is totally inappropriate for an investigator to ask "Do you wish to lay charges?"; charges should be recommended by the police as they are in all other investigations, and witnesses and victims provided with the appropriate support and protection. It is sometimes useful to characterize the victim as a witness. When both parties understand that the victim is being regarded simply as a witness and has no power to initiate or end criminal charges, there is less likely pressure brought to bear on the victim to back away from the charges at some later date.

Investigators should consider the following sections of the Criminal Code - in addition to the frequently used assault sections - when considering recommending charges:

S.810(1) - This is the most commonly misunderstood section of the Criminal Code with reference to spousal assaults. It is commonly referred to by people in the Criminal Justice System as a threatening section, the peace bond section or the restraining order section. There has been, in the past, a very common misconception that a

person complaining of threatening behaviour could simply be referred to a Justice of the Peace to obtain a peace bond or restraining order. No such process exists in law or practice. There is only one way to obtain an 810 order and that is by swearing an Information in the normal way based on a police report. The only difference in swearing an 810 Information is that it must be sworn by the person who fears the injury or damage described in this section.

The appropriate procedure for it is as follows:-

l) the police officer takes the report and/or statement from a person fearing injury or damage;

2) that report is submitted as soon as possible and in any case, no later than the next day to the Crown Counsel Office, Charge Approval;

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3) Crown Counsel prepares an Information in the name of the person complaining;

4) Crown Counsel phones the complainant and arranges for them to come to the Registry and swear the Information in front of a Justice of the Peace;

5) A Justice of the Peace will then issue a warrant because of the nature of the section;

6) When the warrant is executed, ball conditions may be imposed in the usual way;

7) If at the hearing of the matter there is a finding that reasonable grounds exist for the fear, the respondent may be ordered to not contact the complainant for a given length of time and the order is secured by an agreed upon monetary penalty in the event of breach.
As well, S.811 provides for a summary conviction offence for breaching an order under S. 810.

REMEMBER, IT IS INAPPROPRIATE TO REFER A PERSON WHO FEARS INJURY OR DAMAGE DIRECTLY TO A JUSTICE OF THE PEACE.

It is also important to remember that with regard to S.810, no specific threat needs to be made. A past course of conduct on the part of the respondent which would cause a reasonable person to fear is all that is required.

2. S.264.1 - "Uttering Threats"

This is a relatively recent addition to the criminal code, presumably to cover more serious threats of death, injury or property damage. These charges proceed as any other charges under the Criminal Code.

3. S .430 - "Mischief"

Interferes with the lawful use of property.

4. S.372(3) - "Harassing Phone Calls"

5. S.423 - "Intimidation"

This section refers to a person who without lawful authority tries to force another person to do something they have a right not to do, or abstain from doing something the other person has a lawful right to do. This intimidation may consist of persistently following the person, hiding personal property owned by that person, or threats of injury to that person.

6. S.31 - "Preventing Breach of Peace" - while this section can be useful, remember no criminal code charge results from such an arrest.

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Obtaining written statements from victims and witnesses is frequently a problem in spousal assault cases. The investigator should make every reasonable attempt to obtain a written statement, or have the victim/witness sign a record of the incident in the investigator's notebook, {in which case a photocopy of the notes should be attached to the RCC}. In the event that it is not possible to obtain a written statement, the investigator should document the circumstances in the RCC. It is reasonable to assume that in many cases, with appropriate support, protection, and counselling, victims will be more cooperative as the process continues.

The optimum time to obtain a written statement from the victim is at the first attendance of the police. Once time goes by, family pressures build, and counsel becomes involved, the opportunity to obtain a written statement has often passed. It is much more difficult for a victim to recant their story if there is a signed written statement from them on the file.

Investigators must always provide the victim with a business card, which is especially useful for other investigators responding to repeat calls. In the event of investigators responding to an incident where the victim alleges a breach of any release conditions or probation, every effort to arrest the suspect should be made.

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SUPPORT AND REFERRAL SERVICES

The Victim Services Unit (VSU)

The VSU (via car 66) is available 24 hours per day and generally should always be called to an incident where a suspect is arrested. When investigating domestic abuse, intimidation, or where these factors are feared, the investigating officers should always consider calling in VSU at the time, or, if this action is not appropriate, notify VSU by forwarding a copy of the report.

VSU is able to supply the following support services:

- immediate emotional and practical support and referral, transportation to transition houses/friends/family, to prevent the isolation of the victims;

- referrals to appropriate agencies and organizations that can provide ongoing support and contact (Transition Houses, Battered Women's Support Services, Family Court Counselling, Lawyer Referral Services, and MSSH)| and interpreters

Note: the safety of the VSU personnel should always be considered. If the suspect is still at large the investigating officers should remain at the scene to provide protection for the VSU personnel and victim.

Victims who flee to Transition Houses can be contacted via VSU for follow-up investigation.

Battered Woman's Support Services (BWSS)

BWSS provides on-going support and referral for victims of spousal violence and intimidation. The offices are staffed between 1000 and 1700 Monday to Friday, and until 2000 on Wednesdays.

The phone number of BWSS --- 687-1867 --- can be provided to victims for direct referral.

Crown Victim Services (CVS)

CVS personnel phone the victims of all spousal assaults on the morning the charge is laid. They offer support, referrals, and witness information.

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REPORTS TO CROWN COUNSEL (RCC)

R.C.C.'s must be submitted when there is sufficient evidence to support a charge.

R.C.C.'s must be submitted when an 810 threatening charge is contemplated. If time is a factor in an 810 threatening, the investigator should "walk the report through Charge Approval" and have the warrant issued the same day.
This involves leaving the appropriate copies of the R.C.C. at Crown Liaison and taking the rest of the report to the Crown Counsel Charge Approval office.

The word "spousal" should be added after the charges to clearly identify the nature of the incident. This will allow the Crown Victim Services Unit, in the charge approval office, to easily identify all appropriate cases for follow-up. Common-law relationships and long standing boyfriend/girlfriend relationships should be classified as "spousal".

When the police attend the scene of a complaint, process is usually by way of arrest, especially if there is concern over the safety of the victim, or concern that the alleged offence might continue after the police leave. There will be situations, {where the officers do not fear a continuation of the offence and there is no danger perceived to the alleged victim) where a Summons or Appearance Notice are appropriate. Please be aware that Appearance Notices and Summons are slow and there is no opportunity for appropriate bail conditions to be imposed. If the investigator is unable to locate the suspect, a warrant request is appropriate.

The investigator should discuss all appropriate bail conditions with the victim, {no-go to residence, place of employment, schools, other family homes, etc.; and no-contact with the victim and family, etc.} and recommend such conditions in the report, advising Crown that the victim wants these conditions. Remember that the victim may be in an emotionally upset and unstable condition. Do not make the decision as to whether to recommend bail conditions to the Crown based solely on the victim's wishes.

Any history of violence, abuse, or intimidation which has occurred prior to or following the reported crime, is very helpful to Crown when dealing with applications to withdraw charges and in speaking to sentence. Also, a history of violence and abuse is admissible evidence on an 810 application whether it refers to a specific threat or not.

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The breakdown of a spousal relationship can often result in extreme violence on the part of otherwise non-violent persons. The investigating officers should routinely enquire of the victim as to whether the accused has access to firearms. When included in the R.C.C., that information can be dealt with in terms of bail, firearms orders, or conditions of probation.

Note: the Crown Counsel Policy regarding Spousal Assault is completely supportive and complementary to Department Policy.

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CONCLUSION

The damage caused to our society by family violence and intimidation probably cannot be over-estimated. The fear, injury, and misery of women and children trapped in such relationships is beyond imagining for people who have never experienced it.

Police Officers are one of the few groups who have an opportunity to effectively intervene in such situations. The first step is usually of critical importance as it often dramatically influences the follow-up process and outcome.

"ABUSERS CONTINUE TO BATTER BECAUSE NO ONE STOPS THEN." stop them by effective intervention, investigation, and enforcement, and so break the vicious cycle of violence and crime.

OTHER SOURCES AND ADVICE

Battered Women's Support Services

GIBSON G., Crown Counsel, Vancouver

TAIT M., Deputy Regional Crown Counsel, Vancouver

Wife Assault Coordinating Committee Members

Resource person or organization to contact for further information
Vancouver Police Department
312 Main Street
Vancouver, B.C.
Canada V6A 2T2
E-mail: vpd@city.vancouver.bc.ca
Fax: (604) 606-2622

Selected sources
1. Vancouver Police Department Training Bulletin, 92-01, Spousal Violence and Intimidation.14pp.

11. TRAINING FOR THE JUDICIARY (COUNCIL OF EUROPE)

A training programme for the judiciary focused on increasing a judge's knowledge of, and sensitising his/her attitude towards ethnic minority issues (including violence against women). Excerpt taken from a Council of Europe Report of Activities (see sources below).

Excerpt
A training programme for the judiciary was devised to meet two basic training needs: the need for information (demography, cultural characteristics of the principal minority ethnic communities); and the need for personal awareness of how ignorance, misunderstanding or use of inappropriate language might - often unwittingly - give offence or cause injustice to occur. The underlying philosophy was to change perceptions which might lead to discriminatory sentencing, and to develop ways of dealing sensitively and effectively with offences involving a racial motivation.

The first phase of the programme was to introduce consideration of ethnic minority issues into the existing training for the Crown Court judiciary - the initial training and the "refresher" training seminars held every five years.

Furthermore, a special national training programme of seminars on ethnic minority issues was introduced. This involves an overnight stay and combines lectures and discussion groups with an evening session at which judges meet informally with members of minority ethnic communities over dinner. These guests are carefully selected and briefed to share their perceptions and experiences of the courts and everyday life in Britain with the judges. The second day is taken up with discussion of the meeting with members of ethnic minorities and consideration of relevant case studies. Racially motivated attacks form an integral part of the subject matter.

Further background information is contained in an Information Handbook.

Initiated by: Ethnic Minorities Advisory Committee (EMAC) - United Kingdom

Resource person or organization to contact for further information
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Selected sources
1. Council of Europe Final Report of Activities, "Group of Specialists on Intolerance, Racism and Equality between Women and Men", Strasbourg, 2 March 1998, doc (CDEG/ECRI),(98) 1.

12. BUENOS AIRES PROVINCIAL COUNCIL FOR THE WOMEN OF THE PROVINCE (ARGENTINA) (TO BE ADDED)

13. MUSASA PROJECT POLICE TRAINING MATERIALS (ZIMBABWE) (TO BE ADDED)

14. ILANUD REGIONAL TRAINING PROGRAM AGAINST DOMESTIC VIOLENCE (LATIN AMERICA) (TO BE ADDED)

VIII. RESEARCH AND EVALUATION

Section 13 of the Model Strategies urges Member States and the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, relevant entities of the United Nations system, other relevant international organisations, research institutes, non-governmental organisations, including organisations seeking women's equality, as appropriate:

(a) To develop crime surveys on the nature and extent of violence against women;

(b) To gather data and information on a gender-desegregated basis for analysis and use, together with existing data, in needs assessment, decision-making and policy-making in the field of crime prevention and criminal justice, in particular concerning:

(i) The different forms of violence against women, its causes and consequences;

(ii) The extent to which economic deprivation and exploitation are linked to violence against women;

(iii) The relationship between the victim and the offender;

(iv) The rehabilitative or anti-recidivistic effect of various types of intervention on the individual offender and on the reduction of violence against women;

(v) The use of firearms, drugs and alcohol, particularly in cases of violence against women in situations of domestic violence;

(vi) The relationship between victimization or exposure to violence and subsequent violent activity;

(c) To monitor and issue annual reports on the incidence of violence against women, arrest and clearance rates, prosecution and case disposition of the offenders;

(d) To evaluate the efficiency and effectiveness of the criminal justice system in fulfilling the needs of women subjected to violence.

Examples of Promising Practices Relating to Research and Evaluation:

1. EXAMPLES OF SURVEYS: THE NATIONAL CRIME VICTIMIZATION SURVEY: FEMALE VICTIMS OF VIOLENT CRIME (UNITED STATES OF AMERICA) .....

2. CANADIAN SURVEY RESULTS: WIFE ASSAULT - THE FINDINGS OF A NATIONAL SURVEY (CANADA) .....

3. RESEARCH METHODS IN AUSTRALIA: VIOLENCE AGAINST WOMEN INDICATORS PROJECT (AUSTRALIA).....

4. BATTERED WOMEN SEEKING SHELTER: PREDICTING, UNDERSTANDING, AND FULFILLING THEIR NEEDS (UNITED STATES OF AMERICA).....

5. FAITH, HOPE, BATTERING: A SURVEY OF MEN'S VIOLENCE AGAINST WOMEN (FINLAND).....

6. VIOLENCE AGAINST WOMEN SURVEY HIGHLIGHTS (CANADA) .....

7. FAMILY VIOLENCE IN CANADA: A STATISTICAL PROFILE 1998 (CANADA) .....

8. CRIMINAL HARASSMENT - "STALKING LEGISLATION" (CANADA).....

1. EXAMPLES OF SURVEYS: THE NATIONAL CRIME VICTIMIZATION SURVEY: FEMALE VICTIMS OF VIOLENT CRIME (UNITED STATES OF AMERICA)

Data collected from the National Crime Victimization Survey (NOVS) and Uniform Crime Reporting system (UGR), conducted by the Bureau of Justice Statistics in the United States, which estimate current levels of female victimization within the country. Extract is taken from the Bureau of Justice Statistics: Selected Findings, US Department of Justice: Office of Justice Programs, (cited below).

Extract. Incidents of violence against women include murders, rapes, sexual assaults, robberies, and both aggravated and simple assaults. National estimates of the extent and nature of female victimization derive from two primary sources within the U.S. Department of Justice.

The National Crime Victimization Survey (NCVS), conducted by the Bureau of Justice Statistics in conjunction with the Census Bureau, provides information about criminal events nation-wide, including those not reported to law enforcement. The FBI's Uniform Crime Reporting (UCR) Program compiles data on crimes brought to the attention of law enforcement agencies nation-wide. Currently, over 16,000 city, county, and State law enforcement agencies voluntarily submit agency-level summary reports of crimes within their jurisdictions.

Together, these data shed light on different aspects of female victimization. This report summarizes findings from several U.S. Department of Justice published reports focusing on the number of violent victimizations, rates of victimization, and the contexts in which the incidents occurred.

National Crime Victimization Survey (NOVS) and Uniform Crime Reporting system (UGR) data show that between 1992 and 1994, the number of violent crimes committed against women reached almost 14 million:

- an estimated 4.4 million in 1992
- 4.8 million in 1993, and
- nearly 4.7 million in1994.

In .1994 there were 1 rape for every 270 women, 1 robbery for every 240 women, and 1 assault for every 29 women. For homicide -- the least frequent -- there was 1 female victim for approximately every 23,000 women 12 or older.

In 1995 the FBI’s Uniform Crime Reporting system (UCR) reported that females represented 23% of all known homicide victims in the United States. In single victim-single offender incidents, males are most often slain by males (89%). Similarly, 9 of every 10 female victims were murdered by males.

In general, for both fatal and non-fatal violence, women are at higher risk than men to be victimized by an Intimate

Female homicide victims are more than twice as likely to have been killed by husbands or boyfriends than male victims are to have been killed by wives or girlfriends.

For those cases in which the victim-offender relationship is known, husbands or boyfriends killed 26% of female murder victims. whereas wives or girlfriends killed 3% of the male victims.

Source: FBI, Crime in the United States 1995: Uniform Crime Reports.

In 1992-93 females experienced 7 times as many incidents of non-fatal violence by an-intimate as did males. 'Each year women experienced over 1,000,000 violent victimizations committed by an intimate, compared to 143,000 incidents that men experienced.

Source: BJS, Violence against Women:· Estimates from the Redesigned Survey, August 1995, NCJ-154348. This report restricted the analysis to lone-offender victimizations.

Victimization estimates from different sources may vary. Statistics reported from various sources may sometimes lack consistency. Many factors may contribute to these seemingly disparate results, such as differences in sample design, in sources of data (official reports or self-reports), in survey methodology, in the scope and specificity of the questions asked, in the time frame covered ("ever," "this year," or "while at college"), and in the definitions of events and relationships.

When reviewing data from different sources, it is useful to examine overall trends over time and the general magnitude and direction of patterns in the data, rather than focusing on specific numbers. Patterns and conclusions that are consistent across multiple data sources are generally reliable for policy purposes.

Sources include: (1) BJS, Criminal Victimization 1994, April 1996, NCJ-158022
(2) BJS, Violence against Women: Estimates from the Redesigned Survey, August 1995, NCJ-154348.
(3) BJS, Violence between Intimates, November 1994, NCJ-149259.
(4) FBI, Crime in the United States 1995: Uniform Crime Reports.
(5) FBI, Crime in the United States 1994: Uniform Crime Reports.
(6) FBI, Crime in the United States 1993: Uniform Crime Reports.

The Bureau of Justice Statistics is the statistical agency of the U.S. Department of Justice.
BJS Selected Findings summarize statistics about a topic of current concern from both BJS and non-BJS data sets.

Resource person or organization to contact for further information
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U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Statistics
Washington, DC
web site: www.ojp.usdoJ.gov/bJs/

Selected sources
1. Bureau of Justice Statistics: Selected Findings, US Department of Justice: Office of Justice Programs, “Female Victims of Violent Crime” by Diane Craven, Ph.D. BJS Statistician. December 1996, NCJ-162602. Data may be obtained from the National Archive of Criminal Justice Data at the University of Michigan, 1-800-999-0960. The report, data, and supporting documentation are also available on the Internet: http://www. ojp.usdoj.gov/

2. CANADIAN SURVEY RESULTS: WIFE ASSAULT - THE FINDINGS OF A NATIONAL SURVEY (CANADA)

A bulletin providing a detailed analysis of wife assault through an examination of the socio-demographic characteristics of those at greatest risk, the seriousness of wife assault on victims, the impact of wife assault on victims, the generational cycle of violence, the percentage of incidents reported to the police and, finally, the use of formal social service agencies by victims of wife assault. Extract taken from Juristat: Service Bulletin (cited below).

Extract
According to Statistics Canada's national survey on Violence Against Women, three-in-ten women currently or previously married in Canada have experienced at least one incident of physical or sexual violence at the hands of a marital partner.

The highest rates of wife assault were found among young women and men, and among marital partnerships of less than two years.

Women whose partners had witnessed violence by their fathers endured more severe and repeated violence than women whose fathers-in-law were not violent.

Children witnessed violence against their mothers in almost 40% of marriages with violence. In many cases, children witnessed very serious forms of violence: in over one-half of cases in which women feared for their lives, children witnessed violence in that relationship.

The police were informed about 26% of wife assault cases reported to this survey. Of these cases, charges were laid in 28%.

Twenty-four percent of women who reported being abused used a social service. Eight percent of all abused women contacted a transition house, and 13% of abused women who left their partner stayed at a transition house.

Introduction. In recent years the issue of violence against women has reached prominence on the agendas of all levels of governments. In 1993, under the federal governments Family Violence Initiative, Health Canada funded Statistics Canada's first national survey on Violence Against Women. The primary objective of the survey was to provide reliable estimates of the nature and extent of male violence against women in Canada.

Women from the ten provinces were randomly surveyed. This included women who have never reported violence and have never been included in official statistics. For many of the women interviewed, it was their first opportunity to talk about their experiences and be counted. Their answers revealed that violence against women in Canada is a serious social problem. Since the age of 16, one in two Canadian women has suffered some form of physical or sexual violence. Of those women who had ever been married or lived with a man in a common-law relationship, 29% have been physically or sexually assaulted by a marital partner at some point during the relationship.

Methodology and approach. With assistance from victims and survivors of violence, community groups, federal and provincial government representatives, academics, and other experts, Statistics Canada developed a unique method and approach to measure violence against women.

Building on the tradition of crime victimization surveys, this survey took into account the extreme sensitivity of the subject matter. Interviewers were trained to recognize and respond appropriately to cues indicating that the woman might be concerned about being overheard. Telephone numbers of local support services were offered to women who disclosed current cases of abuse or who appeared to be in distress. As well, a toll free telephone number provided respondents with an opportunity to call back and verify the legitimacy of the survey, or to continue the interview at a time and place more convenient to them.

The survey was conducted by telephone using the Random Digit Dialing approach to selecting households. Every household in the ten provinces stood an equal chance of being selected, allowing statistically reliable estimates to be made of the general population. Households without telephones could not participate, nor could women who did not speak English or French. Only 1% of the female population of the ten provinces live in households without

telephone service; in approximately 3% of the households contacted, there was a non-response due to language. A total of 12,300 women 18 years of age and older were interviewed about their experiences of physical and sexual violence since the age of 16.

The responses of these 12,300 women have been weighted to represent the 10,498,000 women 18 years of age and over in the Canadian population. Estimates of proportions of the total female population produced from this survey are expected to be within 1.2% of the true proportion 19 times out of 20. Estimates of proportions of subpopulations will have wider confidence intervals.

Summary According to the Violence Against Women Survey, risk of wife assault is highest for young women and those married or living common-law for less than two years. Whereas rates of wife assault do not vary by education level, household income does have some effect. The majority of women who were assaulted also reported that they experienced emotional abuse.

The risk of offending was three times as high for men who had witnessed violence by their fathers. These men tend to inflict more frequent and severe violence on their wives. It should be of some concern that in 39% of violent marriages, children witnessed the violence. It appears that children witnessing violence influences women's decisions to contact the police and to leave the relationship.

One-quarter of women abused by their partner used a formal social service agency. The majority of these women found them to be helpful. Most women, however, relied on the support of family and friends. Many women who have experienced severe violence had never told anyone before disclosing it to an interviewer.

Resource person or organization to contact for further information
Canadian Centre for Justice Statistics
19th fl., R.H. Coats Bldg.
Ottawa, Ontario K1A 0T6
Tel: 613-951-9023

Selected sources
1. Juristat: Service Bulletin from the Canadian Centre for Justice Statistics,Vo1.14, No. 9, March 1994. “Wife Assault: The Findings of a National Survey”, by Karen Rodgers, Senior Analyst. ISSN: 0715-271X

3. RESEARCH METHODS IN AUSTRALIA: VIOLENCE AGAINST WOMEN INDICATORS PROJECT (AUSTRALIA)

The contents of this report are a product of the Violence Against Women Indicators Project (VAWIP). Based at the Australian Institute of Criminology, the main aim of the project was to coordinate data on the criminal justice system’s response to violence against women in order to enhance decision making and policy formulation at a national level. The first step towards coordination involved the identification of data collections with information on violence against women, particularly information which related to legal responses and the criminal justice system. Another task was to review the research undertaken in Australia on violence against women. The underlying reason behind the review of data availability and previous research was to develop recommendations specific to the need for national data and which indicate ways of increasing our understanding of violence against women and the legal responses to the violence. Extract taken from an issue of the Australian Institute of Criminology Research and Public Policy Series entitled “Violence Against Women in Australia” by Judy Putt and Karl Higgin (cited below).

Extract. Violence against Women Indicators Project
Objectives
The Violence Against Women Indicators Project (VAWIP) commenced at the Australian Institute of Criminology in 1995 with the objective of coordinating research on the criminal justice response to violence against women so that the Government would have reliable national data for the development of the most appropriate responses. In interpreting this broad statement "violence against women" was taken to incorporate domestic violence and sexual assault. The project was split into two linked parts, the first to promote and examine data coordination and the development of national indicators on domestic violence and sexual assault, and second, to develop research to complement the data coordination activities and address various access to justice issues. Originally funded for four

years, the funding was terminated in 1996, with only the tasks for the first year completed. This report summarises the activities of the first year of VAWIP by presenting a summary of Australian research on violence against women, a summary of the data currently available, and a discussion of the problems of data coordination and comparison that arise out of an examination of this data.

Definitional Issues

For the Project it was decided that the initial focus should be on domestic violence and sexual assault. No absolute definitions of these terms were offered. Rather, because VAWIP was mainly concerned with criminal justice matters, the terms "domestic violence" and "sexual assault" were confined largely to the behaviours included under, and defined by, the laws of each State and Territory. As these laws refer to physical rather than psychological violence or abuse, the many forms of psychological and economic abuse that exist were not addressed. Other forms of violence against women such as stalking were also not discussed in detail, although it was the goal of VAWIP to address such issues in planned supplementary research and as a part of the core work for later years. In addition, because of the focus of VAWIP on violence against women, violence against men was not covered. Discussion about domestic violence was also limited to violence occurring between current and former adult intimates, although it is acknowledged that much debate is currently under way on the distinctions made between "domestic" and "family" violence.

The Contents of the Report

Chapter 1 is a summary of past Australian research on the topics of domestic violence and sexual assault, and a discussion of future research directions. Also presented are the findings of an expert workshop held in Canberra in May 1996, on the research and data needs on violence against women in Australia.

Chapter 2 summarises what data are available on domestic violence and sexual assault, and whilst it is not a complete survey of all information sources in existence in Australia, it covers major collections from the criminal justice sector and non-criminal justice sectors. Also presented are examples of the type of data available, including data not previously published. The final part of the chapter is a discussion of the problems in comparing data across jurisdictions and between organisations.

The concluding chapter makes recommendations related to the substantive issues covered by the Project.

Appendices contain a bibliography, a summary of data sources, a summary of domestic violence legislation in Australia, and a list of key indicators.

The Violence Against Women Indicators Project Workshop

The main objective of Violence Against Women Indicators Project (VAWIP) was to consolidate existing sources of data and to increase cooperation between agencies and researchers in order to enhance understanding of the issues from a national perspective. It was a unique opportunity to access criminal justice data in every jurisdiction, and to undertake or coordinate research that will improve interpretations of data, and provide insights into key issues obscured or neglected by solely relying on statistics.

In order to establish priorities for the project, researchers, policy advisers and statisticians from around Australia were invited to participate in a workshop. Held in Canberra in May 1996, the aim of the workshop was to develop priorities for the coordination and analysis of data at the national level, and to identify priorities for research on domestic violence and sexual assault.

During the course of the workshop, a recurring theme was how to conceptualise and interpret the notion of justice for/to women, which raised the important question of what are appropriate indicators for justice? It was underlined there should be attempts to assess the quality of law/justice from mainstream services but, since it was acknowledged that the criminal justice system is not the only avenue for seeking justice and there can be non-adversarial mechanisms to deal with experiences of victimisation, the availability of options for women and control over processes by women were seen as critical dimensions to justice.

Although one group sought to emphasise other forms of violence against women aside from what may be classified as domestic violence and sexual assault, the majority of participants focused on domestic violence and sexual assault and stressed that insufficient attention has been paid to the interaction between the two, primarily because they tend to be dealt with by different agencies in the service sector.

Emphasis was placed on obtaining information from and on those who do not access the formal justice system and pursuant to this objective, it was advocated that data from non-government organisations and the service sector be used and that efforts should be made to ensure research undertaken by non-government organisations reach a wider

audience. In order to better understand how women are accessing services and their attitudes to the criminal justice system, one group proposed that research should examine women's help seeking strategies for both sexual assault and domestic violence. The research could look at what helps or prevents women achieving their own goals, and would involve following up women who have had contact with the criminal justice system or other agencies and networks.

Although most groups underlined the need to consider key communities--and the indigenous, ethnic, gay, rural communities were named by several groups--it appeared to be the general consensus that the experiences of Aboriginal women should have the highest priority for research. It was recognised that any research would only occur at the instigation of Indigenous women because it has been repeatedly stated by Aboriginal people that they want culturally sensitive responses and research, under their control, in the context of a much broader understanding of their position. Due to the diversity of experiences amongst people and the range of situational contexts, it was noted that the researchers would have to consider community individual responses to violence against women.

Age was raised as an issue in relation to two matters. Firstly, as several participants believed there was an urgent need to investigate routine forms of victimisation experienced by young women, there was some discussion on the age at which females would be considered "women" for the purposes of research and data analysis. Second, attention was drawn to the effects of violence on children and the need to include their experiences as victims and/or witnesses and the consequences for continued violence in the next generation.

Recommendations were made about methodological approaches to research on violence against women. Having posed the question "what are indicators?", one answer was that statistical information could be used as numeric indicators, for example, by predicting and analysing risk factors. However, it was agreed by all present that qualitative research is essential in order to capture and to take into account women's experiences, and the general conclusion was that it is important to complement quantitative research with qualitative research.

On the more particular subject of the kind of work the VAWIP team could undertake, the team was perceived as being in a unique position to take on a national role and well placed to do the following tasks:

- To review and summarise what has been said and done before, and to work with existing networks. It was stressed that much has been done already, and the team should avoid duplication and not reinvent the wheel.
- To explore different methodologies for evaluations of services, programs, and the effectiveness of training and prevention programs. In addition to evaluations, documenting the patterns of use of services was identified as important along with research methods which produce a cost/benefit analysis of services and interventions, and which factor in the social and economic costs of violence.
- To develop models for, and/or undertake, longitudinal research. Documenting case studies, for example, specific community strategies and programs, was suggested and various forms of tracking were advocated on numerous occasions. There were two basic types mentioned the "tracking" of individuals over time, and the tracking of cases through different agencies' data collections. As a result, it was suggested that the VAWIP team provide an outline and evaluation of tracking models.

In relation to data issues, workshop participants stressed significant obstacles to address before data collections can be easily coordinated and compared. In broad terms, discussions highlighted the need to promote the utility of data mainly amongst service providers, to encourage the sharing and linking of information, and to facilitate efforts to develop data sets.

The Australian Institute of Criminology was called on to assist such developments by contributing the following:

- to compile an audit or compendium of data sets which indicates the quality and nature of the information kept by collectors of data;
- to identify gaps in the data, to establish where data is unavailable or only available in limited form;
- to develop core sets of data items and definitions, and guidelines for minimum data sets.

With the analysis of data, participants at the workshop produced priority areas ranging from the very general to quite exact topics. To once again focus on tasks for the Australian Institute of Criminology, the basic expectation appeared to be that the VAWIP team could begin by:

- accessing existing criminal justice data for further analysis and producing national figures;
- analysing presentation and reporting data for risk factors, and for demographic profiles of offenders and victims;
- concentrating on protection order data; and

- analysing or accessing data relevant to key communities.

Research (Difficulties)
Impediments to data coordination and comparison
As stated earlier, there are numerous collections of data on violence against women in Australia. However, when we look at these collections there are differences within different parts of an organisation, between different organisations within a jurisdiction, and between like organisations across jurisdictions, both in the type of data collected and in the methods of data collection. This section attempts to summarise major obstacles that prevent the coordination and comparison of data from various sources. Some of the obstacles apply generally, while other issues are more relevant to the service sector and community organisations. Wherever appropriate, however, examples are provided from the criminal justice sector.

With the criminal justice sector, the main issues relate to difficulties in comparing data from the same agencies across jurisdictions, and in comparing data between different agencies within a jurisdiction. For example, Grabosky (1989) in his comments on police statistics, underlines how definitions and counting practices have varied from jurisdiction to jurisdiction thereby inhibiting comparisons between jurisdictions and over time. Inconsistencies are affected by legislative differences between the states and territories, by procedural and operational differences between justice agencies within and between jurisdictions, and by differences between divisions and sections within agencies.

Various approaches have been considered to create systems, within a jurisdiction, which allow for the integration and compatibility of data between justice agencies. At present, the Northern Territory is the only jurisdiction to have a comprehensive justice information system --the Integrated Justice Information System (IJIS)--that allows each participating agency to accomplish their individual tasks and at the same time interact with one another through the facilities on the system. Agencies using IJIS include the police, correctional services, the Office of Court Administration and the Attorney-General's department. Introduced in late 1992, IJIS was originally designed to monitor offenders in the legal system so it contains less information on victims. However, information relating to violent incidents includes data on the type of incident, whether alcohol was involved, the relationship between perpetrator and victim, breaches of protection orders, and the ethnicity of the accused.

The WA justice system is integrated in the sense that individuals can be "tracked" over time in their contact with police and corrections. South Australia has a similar but less developed form of integration with "tracking" through the Justice Information System. In other jurisdictions, however, it appears no formal links exist yet between justice agencies. There have been efforts to integrate the police and public prosecution systems for the ACT. Both systems maintain statistics for operational reasons, but the data did not "match" as public prosecutions hold information on finalised matters, which is only a subset of the offences reported to the police. The cost and issues surrounding access also militated against integration.

Barriers to standardisation and comparability across jurisdictions and between agencies can be characterised under the following headings:
- reliability and accuracy within collections;
- changes to data collections over time;
- restricted access;
- limited resources and organisational priorities;
- differences in definitions, classification and counting;
- sensitivity of comparative analysis.

Although the impediments to coordination have been categorised under these headings, they are not mutually exclusive and often occur in combination.

Reliability and accuracy within collections An overriding concern for most statisticians when looking at data is estimating the degree of reliability and accuracy. It is when examining the first stages of data collection and entry processes within individual data collections that the scope for human error is greatest. There are two major points at which the potential for human error can put the accuracy of data collections into question. These are the initial data recording or reporting stage, and the data entry or coding stage. Certain categories of data are also more prone to ambiguous recording practices and are subject to interpretation by reporting and data entry personnel.

For example, information on race, ethnicity, and on the relationship between the offender and victim may rely on the impressions of the person recording the information. In addition, descriptions relating to these variables may be found in forms and these then have to be interpreted by data coders, which again creates the opportunity for individual discretion to affect the reliability of the coded information. Alternatively, because of the uncertainty surrounding these variables, data fields or questions on a form may be unanswered or left blank so that there is a high proportion of unknown cases for these data categories.

Changes to data collections over time
Another problem with comparing different data collections, and with doing longitudinal analysis on individual data collections is that such collections change over time. There are often changes made to counting rules, definitions, or procedures that make comparison across different databases, and within databases over time difficult or impossible. For example, the upgrading of computer systems in the Victorian police service in 1992 saw the movement of the family violence report data into the main database. Combined with changes in the counting rules for offences against the person, this shift precludes comparison of the data obtained before this date with that collected subsequently.

Restricted access Problems in obtaining access to data can be categorised under two sub-headings; the first, non-retrievable data, and second, privacy.

Despite the growth in computerisation of records over recent years, it is still the case that many agencies have data collection systems that make data retrieval difficult, and in some cases impossible. For example, in a recent survey of 99 service agencies in Western Australia, 31 per cent did not collect information in a form useable in cross agency comparisons, with 6 per cent recording no information at all, and 25 per cent recording information only in a narrative format (Tan & Voros 1996). In addition, of the 99 agencies consulted, 21 per cent did not record information on any computer database. When data is recorded only in narrative forms or stored in manual records, it is in effect lost for national comparison because an inordinate amount of resources would be required to convert such information into a useable format.

The standards of client confidentiality practised by agencies dealing with victims of sexual assault or domestic violence, whilst necessary for the protection of victims, often act as an impediment to establishing coordinated data collections (Tan & Voros 1996). It is felt that the information necessary to compare reported rates between organisations should not be made available, as making such information available violates the privacy of the victim, and may put the victim at risk. However, without mutual access to such information at the local level amongst relevant agencies, interagency coordination and cooperation is difficult.

Limited Resources and Organisational Priorities The main concern of service providers is to provide safety and support to victims of violence, whether this be through the apprehension of a perpetrator or the counselling of a victim. It is often the case that the collection and analysis of statistical information is a low priority task. A frequently cited reason for this is the lack of resources (financial, staff, expertise, computers) to undertake the collection and analysis of detailed client information. Differences in the extent and deployment of resources result in different standards of hardware and systems even within different sections of the same agency, and this contributes to the problem of incompatibility. Indeed, even where such information is recorded it is rarely disseminated, partly due to resource restrictions, and partly due to the confidentiality and safety issues discussed above.

An example of the problems faced in gathering national information from Australian courts, caused directly by a lack of adequate resources, can be seen in Tasmania. With court statistics, Tasmania is divided up into three regions all of which have different recording practices and which until recently saw only the Hobart region computerised. In addition, there is a shortage of personnel responsible for analysing court processes and court data. Court statistics for Tasmania will only be produced when more resources are devoted to personnel and the computerisation of data.

There are also variations caused by differences in the rationales for collecting the information, and the actual work performed by the agencies. For example, the criminal justice sector tends to collect information on offenders, whilst other service organisations focus on the victim. Even between components of the criminal justice sector there are variations caused by their different roles in the system and the different tasks performed by the agencies. Courts tend to collect information on matters finalised, whilst the police focus on reported crime. These differing priorities and responsibilities mean that even when organisations give the same overall weight to the collection of information, the information they ultimately collect may be completely different and non-comparable.

Differences in Definitions, Classifications and Counting Amongst the various agencies possessing information on violence against women there are differences in the definitions used, the counting rules in place, and between jurisdictions even in the offence classifications used. The need for standardised data collection methods, including nationally uniform definitions has been called for on numerous occasions. For example, Sherrard et al. (1994) stress the need for the adequate collection and management of data on domestic violence and they recommend standardisation of definitions and terminology. Another example is the manner in which sexual violence has been defined in surveys on the incidence of crime and violence ranging from the general to more restricted legal notions of sexual assault. For instance, in the United States, having recognised that a more general definition was needed along with more sensitive questions on domestic violence and sexual assault, the National Crime Victimisation Survey has been substantially altered (Bachman & Saltzman 1995).

Although procedural differences between organisations play a large part in hindering the process of the national coordination of data on violence against women, legislative differences between the states and territories are the underlying factor which creates many of the variations in definition and classification.
As Bargen and Fishwick (1995) explain, there are considerable differences in legal definitions for sex offences between states and territories. The principal difference is that Victoria, South Australia and Queensland retain the offence rape, whilst the others have grades of sexual assault. In relation to criminal justice data, the legislative differences have resulted in definitional problems for sexual offences and all sex offences are normally collapsed together under the one category for comparisons between jurisdictions. Similarly, differences in domestic violence legislation, which are summarised in Appendix III, result in differences between the type and scope of the protection orders available in each state or territory (Seddon 1995).

As is illustrated by the examples of the major sources of data on violence against women presented earlier in this chapter, major differences in the recording and classification of data exist which cannot be attributed to legislative factors alone. Whilst the majority of criminal justice organisations now collect socio-demographic variables such as age and gender in a fairly standard manner, the data often pertain to defendants and are not recorded for the victims of personal violence. Moreover, differences remain with the classification and definition of variables, and the range of data subsumed under each variable, with the more problematic categories such as race and ethnicity, and with data categories related to incidents.

Trend analysis has frequently been hampered by changes to counting rules. For example, changes to the counting rules for police reports of sexual assault have occurred at different times in different jurisdictions which has restricted trend analysis on a national scale to the past few years.

Sensitivity of comparative analysis differences in counting and classification, are continually being addressed through the work of the Australian Bureau of Statistics in its development of the Australian National Classification of Offences (ANCO), the work of the National Centre for Crime and Justice in developing uniform police statistics, and the moves towards nationally standardised legislation via the model criminal code.

Nevertheless there continues to be a pronounced reluctance in many quarters to have national aggregate data which can be broken down by jurisdiction or region. Comparative analysis of data from different jurisdictions and regions can, it has been argued, result in the identification of differences which are open to misinterpretation. Explanations for the differences may not take into account the specific circumstances, for example different statistical procedures, found in a region or jurisdiction.

Future Directions with Data
This chapter, in conjunction with Appendix II, provides a catalogue of data collections from a range of agencies. Most of the collections are either national in scope or contain statistics produced by agencies within the justice system. The feature they share in common is their potential to generate information on violence against women and the justice system's response to the violence. It was impossible to present all of the material stored within the collections, and the Tables and Figures are a selective presentation to demonstrate the utility of the data and to highlight the need, at a national level, for further analysis of the data.

Chapter 2 has also underlined the differences between data collections. Improved coordination and consistency will depend upon the development of core data items and categories. Agreed upon definitions for critical variables, most notably for domestic violence and sexual assault, will assist the process of improving the quality and comparability of information. Appendix IV contains a list of key areas for which there is the need to develop indicators for statistical data and other forms of research.

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http://www.aic.gov.au

Selected sources
1. Australian Institute of Criminology Research and Public Policy Series, "Violence Against Women in Australia" by Judy Putt and Karl Higgin. ISSN: 1326-6004, ISBN: 0 642 24031 0. 1997, 56pp.

4. BATTERED WOMEN SEEKING SHELTER: PREDICTING, UNDERSTANDING, AND FULFILLING THEIR NEEDS (UNITED STATES OF AMERICA)

A report presented at the American Society of Criminology Conference in Washington, DC in November 1998. The agencies involved included the Criminal Justice Research Division and the San Diego Association of Governments.

Description. As the result of the 1995 California Elected Women's Association for Education and Research (CEWAER) Summit in 1995, a need for information regarding victims of domestic violence was identified. It was agreed that without better information, it is nearly impossible to create effective, pro-active outreach to this population.

Implementation details. The objective of this report was to create an analysis of shelter clients. The first step was the creation of CORE (Compilation of research and Evaluation) Intake Instrument and train shelter staff in administering the instrument. The second step was to randomly select domestic violence cases and track these cases from the initial call to police through to disposition. The CORE Intake Instrument requested information on: number of children; alcohol and other drug use; previous abuse; nature of abuse; medical treatment and socio-demographic information. The results of this study are published as statistics available within the report.

Cost issues. The research was funded by both the National Institute of Justice (NIJ) and the State Legislature.

Resource person or organization to contact for further information
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San Diego, California, USA
92101-4231
Tel: 619-595-5300
Fax: 619-595-5305
http://www.sandag.cog.ca.us

Selected sources
1. "Battered Women Seeking Shelter: Predicting, Understanding, and Fulfilling their Needs", Presentation at the American Society of Criminology Conference, Washington, D.C., Criminal Justice Research Division, San Diego Association of Governments, November 1998.

5. FAITH, HOPE, BATTERING: A SURVEY OF MEN'S VIOLENCE AGAINST WOMEN (FINLAND)

A victimisation survey providing information on the occurrence, structure and trends of violence against women in Finland. Violence against women and partner violence have been discussed in the violence committee of the Council for Equality, Finland, established in 1990. The violence committee has made several proposals and initiatives in respect to the problem. Effective planning and implementation of measures to prevent violence against women have suffered from a lack of basic information about the problem and its linkages. Such basic information is now presented in this study of women's experiences of violence. Extract taken from Faith, Hope Battering: A Survey of Men's Violence against Women in Finland (cited below).

Extract The central aim of the study was to get representative and statistically reliable information about the prevalence of male violence against women and its consequences. Such information is much needed in the debate about violence. Existing data is scarce. What is available are statistics on persons killed as a consequence of family violence, and special studies of crimes recorded by police. These cover only a small fraction of violence against women. Neither it likely that the coverage or depth of registered data will be improved in the future, as far as violence and consequences are concerned. It has also been suggested that registered data are biased, violence among the lower social strata being more likely to be controlled and recorded by authorities than violence against "better people." Interview surveys of representative population samples, such as this one, provide a fuller picture of the phenomenon.

Implementation details. The study was carried out as a postal inquiry in the second half of 1997. A systematic sample of 7,100 Finnish and Swedish speaking women aged 18-74 years was drawn from the Central Population Register. Out of this sample 4,995 returned an acceptable questionnaire, the final response rate being 70.3%. The main questions asked in this report were: How prevalent is violence by men against women?; How much of it is there in different population groups?; How prevalent is violence experienced by women in a relationship and what is it like?; How prevalent is violence that occurs outside of relationships and what is it like?; How concerned are women about the risk of becoming a victim of violence in different situations in ever day life and how prevalent is sexual harassment? Other areas studied include degrees of fear, shame, guilt and hatred resulting from violence, the kind of injuries received and whether the victim had received any help or support. The final question addressed is the relationship between theories of social learning, situational theories, and life style related explanations and whether the results of these finding support these theories.

Cost issues. The Ministry of Social Affairs and Health and the Council for Equality have financed the data collection, analysis and reporting of the survey.

Resource person or organization to contact for further information

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Selected sources

1. "Faith, Hope, Battering: A Survey of Men's Violence against Women in Finland", by Markku Heiskanen and Minna Piispa. Official Statistics of Finland. ISSN: 0784-8366, ISBN: 951-727-526-9. Yliopistopaino, Helsinki 1998.

6. VIOLENCE AGAINST WOMEN SURVEY HIGHLIGHTS (CANADA)

Between February and June 1993, Statistics Canada conducted a national survey (excluding the Yukon and the Northwest Territories), on behalf of Health Canada regarding male violence against women. Approximately 12,300 women 18 years of age and older were interviewed by telephone about their experiences of physical and sexual violence since the age of 16, and about their perceptions of their personal safety. Description taken from The Daily, Statistics Canada(cited below).

Description. The results of this survey suggest that violence against women is widespread and has serious consequences for victims. One-half (51%) of Canadian women have experienced at least one incident of physical or sexual violence since the age of 16. Twenty-five percent of all women have experienced physical or sexual violence at the hands of a martial partner (martial partners include common-law relationships throughout this report). One-in-five violent incidents reported to this survey were serious enough to result in physical injury.

Implementation details. This was the first national survey of its kind anywhere in the world. Most research in this area reflects the experiences of women who report violent incidents to the police or use the services of shelters and counselling services. This survey went directly to a random sample of women to ask them about their experiences, whether or not they had reported to the police or anyone else. Random selection helps ensure that the women who responded are statistically representative of all Canadian women and that the results can be generalised to the female population at large. This survey was conducted using the Random Digit Dialling method of contacting households. With this method, every household with telephone service had a chance of being selected. Households without telephones could not participate, nor could women who did not speak English or French. From the approximately 19,000 households contacted, 12,300 interviews were obtained, a response rate of 64%.

Cost issues This project is one of a number of data collection studies funded by Health Canada through the federal government's Family Violence Initiative.

Resource person or organization to contact for further information

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Selected sources

1. The Daily, Statistics Canada: Thursday, November 18, 1993, "The Violence Against Women Survey". Ministry of Industry, Science and Technology. Catalogue 11-001E (Francais 11-001F) ISSN: 0827-0465.

7. FAMILY VIOLENCE IN CANADA: A STATISTICAL PROFILE 1998 (CANADA)

As part of the federal government's Family Violence Initiative in Canada, the Canadian Centre for Justice Statistics (CCJS) is producing a new annual report called *Family Violence in Canada*: *A Statistical Profile.* The purpose of this report is to provide the most up-to-date data on the nature and extent of family violence in Canada and monitor trends over time. This report, the first in the series, provides a general overview of the most recent information on the abuse of spouses, children and older adults.

Description. Throughout this report, and those to follow, a general underlying theme will become apparent: the serious challenges facing researchers and data collection agencies as they attempt to quantify these very personal and very sensitive events. The most comprehensive statistical data on some types of family violence in Canada are available from official police reports or the records of social service agencies. These agencies collect information on reported cases of family violence. Child abuse and the abuse of older adults however, are more difficult to obtain because of concerns with the quality and reliability of data obtained from very young or old victims who may be dependent on their abusers. Currently, efforts are underway at Statistics Canada to improve data collection in the areas of spousal, child and senior abuse.

Implementation details. The data for this report are drawn from a number of sources including police reports from the Incident based Uniform Reporting Survey (UCRII), the Homicide Survey, the Transition Home Survey and the Violence Against Women Survey. In addition, information is extracted from various publications and articles. The survey looked at several specific areas for data collection: spousal violence; child abuse; abuse of older adults and family homicide.

Cost issues. Funding for this project was supplied by the federal government of Canada

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E-mail: order@statcan.ca

Selected sources
1. "Family Violence in Canada: A Statistical Profile – 1998", by Valerie Pottie Bunge and Andrea Levett. Ministry of Industry, 1998. Catalogue no. 85-224-XPE (Francais 85-224-XPF) ISSN: 1480-784X.

8. CRIMINAL HARASSMENT – "STALKING LEGISLATION" (CANADA)

This statistical report provides information on incidents of harassment in Canada following the latter's first criminal harassment legislation, section 264(1) of the Criminal code, which was proclaimed into force on August 1, 1993. Criminal harassment, commonly referred to as "stalking" is generally defined as repeatedly following or communicating with another person, repeatedly watching someone's house or workplace, or directly threatening another person or any member of their family, causing a person to fear for their safety or the safety of someone known to them. Description taken from Juristat Service Bulletin (cited below).

Description. These legislation reforms were intended to better address family violence and violence against women, including criminal harassment. The legislation was in response to a number of highly publicised cases in Canada were women had been killed by their estranged partners. It also follows in the footsteps of legislative reforms in the United States where anti-stalking laws in over 40 states have since passed or drafted similar legislation. The new legislation also sought to provide better protection to victims of criminal harassment. Before the legislation was enacted, stalkers could be charged with a variety of offences relating to the Criminal Code, however, these ways of dealing with stalking behaviour were criticised for failing to protect victims, as the accused had to either threaten or physically harm someone before any action could be taken by authorities. Other behaviours, such as repeatedly sending gifts and letters, and constantly following or watching another person could rarely be dealt with by the legal measures available.

Implementation details. While section 264(1) was enacted primarily to strengthen *Criminal Code* provisions that dealt with family violence and violence against women in general, little statistical information on the nature and extent of criminal harassment has been available. This statistical data report presents police and court data on criminal harassment that is currently available from Statistics Canada's Revised Uniform Crime reporting (UCR) Survey and Adult Criminal Court Survey (ACCS). As the legislation is relatively new, this report is a first attempt at producing a detailed analysis of criminal harassment in Canada and are not nationally representative. As such, the analysis will focus on the nature of the incidents rather than the extent.

Cost issues. Funding for this project was supplied by the Federal Government of Canada

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Selected sources

1. Juristat: Service Bulletin from the Canadian Centre for Justice Statistics,Vo1.16, No. 12, December 1996. "Criminal Harassment", by Rebecca Kong. Catalogue no: 85-002-XPE, ISSN: 0715-271X.

IX. CRIME PREVENTION MEASURES AND THE MEDIA

Section 14 of the Model Strategies urges Member States and the private sector:

(a) To develop and implement public awareness and public education and school programmes that prevent violence against women by promoting equality, cooperation, mutual respect and shared responsibilities between women and men;

(b) To develop multidisciplinary and gender-sensitive approaches, especially through partnerships between law enforcement officials and the services that are specialized in the protection of women victims of violence;

(c) To set up outreach programmes for offenders or persons identified as potential offenders in order to promote the peaceful resolution of conflicts, the management and control of anger and attitude modification about gender roles and relations;

(d) To set up outreach programmes and offer information to women, including victims of violence, about gender roles, the human rights of women and the social, health, legal and economic aspects of violence against women, in order to empower women to protect themselves against all forms of violence;

(e) To develop and disseminate information on the different forms of violence against women and the availability of programmes to deal with that problem, including programmes concerning the peaceful resolution of conflicts, including in educational institutions at all levels;

(f) To support initiatives of organizations seeking women's equality and non-governmental organizations to raise public awareness of the issue of violence against women and to contribute to its elimination.

Violence in the Media

Section 15 of the Model Strategies urges Member States and the media to develop public awareness campaigns and appropriate measures, such as codes of ethics, aimed at enhancing respect for the rights of women and discouraging both discrimination against women and stereotyping of women.

Examples of Promising Practices Relating to Crime Prevention Measures and the Media:

1. EDUCATION & ACTION KIT: WHITE RIBBON CAMPAIGN/MEN AGAINST VIOLENCE AGAINST WOMEN (CANADA) .....

2. BREAKING THE CYCLE OF VIOLENCE: THE CITY OF TORONTO'S SAFE CITY COMMITTEE (CANADA) .....

3. ZERO TOLERANCE POLICY (CANADA) .....

4. THE WOMAN'S SAFETY AUDIT (CANADA) .....

5. US DOJ DOMESTIC VIOLENCE AWARENESS: WHAT YOU CAN DO (UNITED STATES OF AMERICA) .....

6. THE COMMUNITY KIT (CANADA).....

7. EDUCATION AS A TOOL TO COMBAT VIOLENCE AGAINST WOMEN: "PASSPORT TO EQUALITY" (UNESCO) .....

8. RAISING AWARENESS: "DOMESTIC VIOLENCE WORKPLACE EDUCATION DAY" (UNITED STATES OF AMERICA).....

9. THE WOMEN'S HUMAN RIGHTS TRAINING INITIATIVE (UNITED STATES OF AMERICA).....

1. EDUCATION & ACTION KIT: WHITE RIBBON CAMPAIGN/MEN AGAINST VIOLENCE AGAINST WOMEN (CANADA)

As a result of the tragedy at Montreal's Polytechnique in 1989, in which 14 women were murdered, a group of concerned men launched an awareness campaign on the issue of men's violence against women. This pledge became known as the "White Ribbon Campaign", and became a pledge to "never commit, condone, or remain silent about violence against women." Across Canada, United States, Australia, and Norway, its aim is to promote awareness among, and action by, men and boys to help men's violence against women.

Synopsis

Description. This package is designed to introduce students and teachers to a range of issues that surround the problem of violence against women and to help them feel that there are many things that they can do to take action on this issue.

Implementation details. In recognition of the differences in the way students learn, the enclosed exercises incorporate discussion, written activities, and readings. They have been arranged in a progressive manner - leading students to question gender-based stereotypes and myths, explore harassment and dating behaviours, and identify the components of violence prevention and healthy relationships. These exercises are recommended to be part of an extended educational component of your school. The manual also includes activity ideas for whole-school involvement, activities which could be useful in raising funds for the campaign, while at the same time raising awareness in your community.

Cost issues. Funding for this program comes primarily from contributions from supporters in the community. It also comes from trade unions, corporations, religious institutions and charitable foundations.

Evaluation. Not noted

Resource person or organization to contact for further information
White Ribbon Campaign: Toronto, Ontario: Canada

Selected sources
1. Status of Women Canada Fact Sheet: National Day of remembrance and Action on Violence Against Women December 6, 1998

2. The Governor's Office for Domestic Violence Prevention: Phoenix, Arizona: Breaking the Cycle: Violence Prevention Information for Individuals and Families

2. BREAKING THE CYCLE OF VIOLENCE: THE CITY OF TORONTO'S SAFE CITY COMMITTEE (CANADA)

The City of Toronto's Safe City Committee was established in 1989 to develop and monitor implementation of municipal policy aimed at preventing violence against women and other vulnerable groups. It was created following a series of crimes which spurred one councillor to mobilize community support behind a report on preventing public violence against women within the municipality.

The Safe City Committee's first task, then, was to monitor the implementation of this report, The Safe City: Municipal Strategies for Preventing Violence Against Women, which was adopted by City Council in 1988. Three years later, City Council adopted the committee's second report, A Safer City: The Second Stage Report of the Safe City Committee, which expanded upon the first by addressing acquaintance and partner assaults as well as the needs of visible minority, immigrant, disabled and other women which had not been adequately represented in the first report.

Currently, the committee is comprised of four councillors and 21 community representatives. The committee has continued to grow and be successful even in the face of severe cutbacks and shifting priorities in municipal government. It has been consulted by both national and international communities attempting to set up their own safer community committees. An important reason for the committee's success is its gender-specific approach to violence which has resulted in response- and prevention-based strategies which meet women's immediate need for safety and long-term need for equality.

Strong political leadership is absolutely essential for building safer communities for women. In Toronto, Councillor Barbara Hall has played a critical role as the committee's advocate in the political realm. She has brought her knowledge of the political system and a long-term commitment to the issue, both of which are essential components for effective political involvement in the process of building safer communities.

Community groups bring to the process knowledge of and experience with the issue and a sense or urgency. When front line workers share their stories of women being unjustly treated, other committee members are quickly mobilized to alleviate women's suffering. Community representatives can also act as lobbying agents and keep the pressure on local politicians to reduce violence against women.

The third essential group is municipal staff who are efficient and sympathetic to the issue. Staff's knowledge of municipal administration is extremely helpful when recommendations to increase women's safety require implementation. In Toronto, participation in the Safe Committee's efforts helped to back up existing efforts to address the issue of women's safety in their departments.

Often, municipalities undertaking inventories of departmental projects and initiatives may find that work has already commenced on the issue of violence against women. The work that has already been done can be capitalized on for less money than if a municipality was starting from scratch, and at the same time, efforts which have already been made are not wasted.

A Simple Mandate

The committee has been effective in promoting women's safety because it has a simple mandate: to monitor the implementation of recommendations from both the Safe City reports and to develop additional policies aimed at violence prevention. To achieve this mandate, the committee strove for a balanced number of recommendations in each of the two Safe City reports which were achievable.

A balance was also required between easy-to-implement recommendations and those that were aimed at changing attitudes and behaviours. Having small victories, such as the self-defence courses for women and lighting in underground garages, has motivated the committee to continue its work. Developing a policy which includes women's safety in the City's Official Plan as well as increasing grants to women's groups are more far-reaching tasks which are the bones of the Safe City Committee's work.

The first report, The Safe City: Municipal Strategies to Prevent Violence Against Women, had a limited mandate. It focused on public violence and provided easy-to-accomplish recommendations that were primarily geared toward practical considerations such as improved urban design features. As a result of their simplicity, the recommendations began to be implemented. The committee decided to capitalize on this momentum and develop new policy which would expand beyond the realm of public violence and place violence on a continuum which includes common acquaintance and partner assaults.

The second report added more issues, and enlarged the committee's mandate, but not so much that the focus was lost. It was becoming important to the committee to make links between issues such as racist harassment and women's safety in the workplace. It was also important, however, not to add too many issues, so that the committee could remain effective.

Not only is the mandate simple and balanced, it is also flexible. The committee renews its mandate every three years as priorities in the community shift. Ongoing contact with community organizations through its membership and Safe City report consultations help the committee to be responsive to the community. Prior to consulting with the community, however, the committee had to have a clear understanding of its own visions and limitations, so that it did not raise community expectations or present an inaccurate picture of its purpose.

In summary, Toronto's Safe City Committee has had to balance the following seven elements to have an achievable mandate which has met women's needs:

- it needs to be ambitious, but not too ambitious
- it needs to be broad, but not too broad
- it needs to start small, but be able to grow
- it needs to have a combination of small challenges with larger ones
- it needs to encompass work with the public and work behind the scenes
- it needs to have long-term commitment, but be flexible
- it needs to be shaped by community consultation, but have a clear vision behind it.

A Gender-specific Approach

The Safe City Committee has adopted a gender-specific approach to reducing violence which is revealed in the recommendations proposed in the two Safe City reports. Many of these recommendations have been implemented and serve to promote women's equality and safety, acknowledge the continuum of violence women are subjected to and recognize the needs of immigrant and visible minority women, women who do not speak English, Native and disabled women. The committee has had both a response- and prevention-oriented approach to violence which has served to meet women's immediate safety needs and promote their right to participate fully in all aspects of life.

The First Report

The first report of the Safe City Committee, The Safe City: Municipal Strategies for Preventing Violence Against Women, drew a link between women's inequality, violence and their withdrawal from city life. The report states: Inequality, poverty and alienation spawn...violence and make women more fearful for their physical safety, which in turn causes them to limit their right to participate fully in city life. This report attempted to promote women's equality by recommending changes in the areas of urban design, public transit, policing and community development to prevent acts of public violence against women. Its focus was on women's immediate needs for safety. Two recommendations from the first report stand out as examples of how a municipal government can increase women's involvement in community life by helping them protect them-selves and ensure access to safer public spaces.

The first was a recommendation to the city to improve lighting in underground residential garages while the other was to provide free Wen-Do self-defence classes for women. Both of these recommendations were implemented and have proven to be effective. In 1989, by-laws on making garages safer were passed and enforced by the Buildings and Inspections Department. "After 18 months, the number of residential garages which (measured up to) Canadian Standards Association lighting standards went from 25% to 95%. Meanwhile, the Parks and Recreation Department had introduced free Wen-Do women's self-defence courses in 30 community centres. The courses were extremely popular, which demonstrated the serious safety concerns of Toronto women.

The Second Report

While the first report was cautious and set out to accomplish practical goals which responded specifically to women's immediate need for safety, the second report, A Safer City: The Second Stage Report of the Safe City Committee, was aimed at broadening the conceptual framework on violence against women in order to bring about long-term attitudinal change on the issue. Up until this report, the committee had characterized violence against women as exclusively public violence. The second report placed violence on a continuum which included everything from unwanted touch and coercion to the rape and murder of women. It focused attention on the importance of municipal responsibility for domestic violence, in particular, by recommending that:

> The Commissioner of Housing, in consultation with community groups and residents, report to the Safe City Committee on action plans to address the following concerns:
> a) ways in which the Housing Department assists and can further assist women seeking to escape violence in their homes including the impact on women of the homelessness initiative undertaken by the Housing Department.

This recommendation sends three messages to municipal officials. Firstly, it links public and domestic violence by saying that women are at risk not only on the streets, but in their homes. Secondly, it makes clear that municipalities have some accountability to women who are abused in their own homes. Thirdly, it extends the staff leg of the stool by attempting to engage more municipal departments in the committee's efforts to reduce violence against women.

The committee's work was already being supported by several municipal departments and offices such as the Department of Management Services which had developed a workplace harassment policy and training package and video for managers and women (see page of this report) and the Healthy City Office which had published a community development guide called, Take Back Toronto! A Guide to Preventing Violence Against Women in Your Community.

Developing interdepartmental liaisons within municipal governments on issues such as violence against women is critical to the effectiveness of a municipal response to the problem. It is also a building block for understanding the intricacies of larger collaborations with provincial and federal governments.

Community consultations leading up to the second report had revealed that the Metro Police's response to wife assault and sexual assault was unsatisfactory. Even though policing is beyond the City of Toronto's jurisdiction, the committee clearly saw that the City's ability to prevent violence against women, through the Safe City Committee, was directly dependent upon the police's response to wife assault. Therefore, it recommended that the City of Toronto:

> ...support the recommendations included in Police Response to Incidents of Wife Assault, a report prepared for the Assaulted Women's Help Line and the Metro Toronto Committee Against Wife Assault; and that it further request the provincial Solicitor General to undertake an independent review of the police response to violence against women.

With this recommendation, the committee stepped outside the bounds of municipal jurisdiction to reinforce the importance of collaboration with another agent in the community attempting to respond to abused women. Increasingly, the message that violence against women is a community issue, belonging to no one group or municipal department or individual, became apparent through the actions of the Safe City Committee.

A Diversity of Women

Prior to the preparation of the second report, the committee had become concerned about the inadequate representation of Native women, immigrant and visible minority women, women with disabilities and women whose first language is not English during the consultation leading to the first report. The committee recognized that it was time to begin linking issues such as racism and violence against women. Women are harmed not only because they are women, but because they are women of colour and/or disabled. Connecting these issues must be a key feature of a gender-specific analysis in order to recognize the importance of differences, not only between women and men, but between women.

A gender-sensitive analysis must be far-reaching enough to recognize the inequality which also exists between a white woman and a woman of colour and to treat the needs of each in ways which honour the single oppression of the former and the double oppression of the latter.

In the consultation leading to the second report, the committee made a concerted effort to meet with over 120 community organizations "which represented ...the full range of ethnospecific agencies, community organizations and neighbourhood groups actually working on the prevention of violence in Toronto...".

The committee had also expressed dismay over the dearth of women who represented the city's diversity within its own membership. One of the key recommendations in the second report set criteria for committee membership which included women from Native, visible minority, immigrant, other-than-English-speaking and disabled groups. Currently, one-third of the committee's member organizations represent immigrant, visible minority, disabled and low-income women.

Broadening the framework within which violence against women is seen involved both the concepts of violence and women to include forms of violence and different kinds of women which had been left out of the first report. The effect of this shift was to move from a response-oriented, quick-fix approach to one which focused attention on the depth and breadth of the problem. It called for an increased understanding, on the part of municipal officials, of the first report's contention that women's inequality is the basis of violence against women. This kind of challenge has the potential to change attitudes which can result in increased commitment to the issue.

Cost issues. The City of Toronto showed that commitment when it approved the second report with the recommendation that it establish a $500,000 municipal grants program to promote violence prevention and increase access to services for immigrant, visible minority, disabled and marginalized women. Currently, $490,000 has been disbursed to 57 community-based organizations under the Breaking the Cycle of Violence grants program. Grant recipients represent organizations and agencies which reflect Toronto's diverse population and all projects are aimed at preventing violence against women and children.

Implementation details. In the last two years, the Safe City Committee has been working on the implementation of the recommendations from the second report. Along with the work done on the grants program, the committee is also developing community resources such as a pamphlet on what men can do to prevent violence against women and a sample workplace harassment policy which is being shared with thousands of groups which do business with the City of Toronto.

3. ZERO TOLERANCE POLICY (CANADA)

The Zero Tolerance Policy was declared by the Canadian Panel on Violence Against Women:

- Equality and freedom from violence are rights of all women, and it is the responsibility of every individual, community, government and institution in Canada to work toward securing these rights.
- The elimination of violence will best be achieved through the adoption and rigorous application of a policy of zero tolerance
- To this end we urge each person and every organization in Canada to commit to the equality and safety of women and implement the Zero Tolerance Policy.

Synopsis

Description. Zero Tolerance is based on the following principles.
1. No amount of violence is acceptable, and the elimination of violence against women must be an absolute priority
2. Those with responsibility for public safety have an obligation to take the most comprehensive and effective action possible to prevent violence from happening and to limit the harms from violence when it has occurred.
3. Policies, practices, programs and products which do not support women's safety must be dismantled
4. Sexist and racist practices and other forms of discrimination and bias which encourage or support acts of violence against women must be eliminated.
5. The rights of the victim in the legal system must at least be equal to the rights of the accused.
6. Victims must not be blamed for the violence committed against them.
7. Governments and institutions have a primary responsibility to demonstrate leadership and to provide resources to achieve equality and to end violence
8. Individuals and all communities within Canadian society have a responsibility to work toward ending violence and achieving equality for all.

Adoption of the Zero Tolerance Policy means making a firm commitment to the philosophy that no amount of violence is acceptable, and that adequate resources must be made available to eliminate violence and achieve equality.

The elimination of violence against women can only be achieved through recognition of the equality of women. Equality initiatives will enhance women's options and reduce their vulnerability to violence.

To this end, a separate equality action plan has been developed which includes mechanisms to assist government in ensuring that all policies, practices and programs embody the principles of equality for women. These initiatives will support groups, organizations and institutions in achieving their goal of equality for women.

The policy framework for zero tolerance outlined below complements the equality action plan. It includes:

- an accountability framework which identifies criteria for zero tolerance to help an organization change its operations by making the elimination of violence and support for women's safety integral to all its activities;
- an outline of steps to be taken in implementing the Zero Tolerance Policy;
- a model for organizations or institutions to use as a guide to implementing the zero tolerance criteria to change business practices.

Institutions can use the Zero Tolerance Policy to examine their operations for the degree to which they support women's safety, enhance or promote women's equality, and are sensitive to gender issues.

The Zero Tolerance Policy is generic and is equally relevant to support groups, non-government organizations, services, corporations and government institutions.

Accountability Framework
The following criteria are to be used to shape the work to be undertaken and to evaluate progress made in reaching zero tolerance. All criteria apply to any activity carried out and to evaluations of progress.

All activities must unequivocally support and promote women's safety and security through:
Eliminating gender, race and class bias:

- by identifying and eliminating any element or underlying assumption that undermines women, for example, myths, stereotypes or roles, based on gender, race or class;
- by recognizing women's realities and experiences as different from those of men; and
- by introducing measures that further equality.

Ending violence:

- by supporting victims and redressing harms when violence occurs;
- by implementing policies and practices that ensure women's safety; and
- by identifying and eliminating problem areas and situations, including at all work sites, that create danger or promote or tolerate violent actions or harassment for women within the organization.

Ensuring inclusion:

- by recognizing the interconnections between the structures of economic power and the organization of elite white male power in society;
- by basing decision making on data and research that accurately reflect women's safety, different realities, experiences and perspectives; and
- by engaging, at each and every stage of all activities, the full participation of women who represent the diversity of Canada and who have direct experience, working knowledge and a demonstrated commitment to equality and ending violence.

Implementation Steps

To apply the Zero Tolerance Policy, a group, organization or institution has six major steps to take:

1. Commit

Formally adopt the Zero Tolerance Policy on violence. Communicate to every member and client/consumer of the organization that women's safety is a priority, and no amount of violence is acceptable.

2. Committee

Create a zero tolerance action committee to oversee implementation with membership that includes senior management and a majority of women drawn from all areas and all levels of the organization who represent employees/workers, management, unions and client/consumer groups.

3. Review

Undertake safety audits of work sites, physical plants as well as of policies, practices, procedures and programs, to detect and deal with situations and employees/workers posing a risk to women's safety.

4. Act

Develop an action plan to detect, deter and prevent violence against women and to ensure women's safety in all aspects of operations and products. Benchmarks and timetables should be built in, and all stakeholders should be directly involved in the plan's development and implementation.

5. Resource

Ensure that the zero tolerance action committee has adequate human and financial resources to be effective. Allocate funds for implementation of the action plan.

6. Evaluate

The zero tolerance action committee must oversee the adoption of and adherence to the Zero Tolerance Policy, must ensure ongoing monitoring and evaluation of the progress made and must report on achievements in their annual report.

Zero Tolerance Model

The following model focuses on the specific aspects of an organization's operations and work; it should be reviewed and realigned using the zero tolerance criteria. Actions are recommended to guide the evaluation and reformulation of operational activities.

A. Priority Setting/Allocation of Resources

A.1 Statement of Commitment

A written commitment to the promotion of women's equality and safety must be included when developing goals, objectives or mission statements, undertaking strategic planning exercises and setting priorities.
The statement is the formal recognition of women's equal access to all resources, programs and information. It is based on women's experiences and realities including those of victims and survivors.

A.2 Funding

Women's equality and safety needs must be considered in the design of budgets, including core funding, subsidies and grants. The model requires institutions and organizations to account for funding as follows:

- Compensate the value of women's contributions adequately.
- Grant fiscal resources to institutions, agencies or organizations conditional on their adoption of the Zero Tolerance Policy. To facilitate compliance, human and/or financial resources should be provided, where possible, to support the development of action plans and the achievement of a zero tolerance commitment.

B. Human Resource Management

B.1. Appointments and Hiring

The intensity of the screening process for appointments and hiring must increase in proportion to the degree of trust or power inherent in the position, especially if the position involves access to children or adults who are vulnerable. Priority must be given to the following hiring criteria to ensure women's safety.

- Through an in-depth check of references and background, confirm that there is no evidence that a prospective employee or appointee would pose a safety risk to co-workers or clients/consumers. The onus is on the candidate to disclose previous criminal convictions.
- Demonstrated understanding of equality issues and the dynamics of violence.
- Personal support of and commitment to women's equality and safety.

B.2. Performance Review and Promotions

Promotions should be based on several factors:

- There are no reasonable and probable grounds for concern that the individual would pose a safety risk or tolerate violence against women.
- The individual has not demonstrated sexist or other discriminatory attitudes, behaviours, or tolerance of violence against women.
- Training on issues of women's safety and equality has been completed, and understanding of that training has been demonstrated.
- Power, authority and trust have been used appropriately by the individual.
- The individual supports and is committed to women's safety and equality.
- The individual conforms to workplace policies on violence, including harassment.

B.3. Training

All employees/workers must receive proper training on woman abuse, sexism and racism. In-depth training must be given to all senior staff; to individuals specifically involved in any process to address complaints or solve problems related to women's safety and equality; to individuals who implement policies and procedures; and to individuals who make decisions on the allocation of resources or assess service/program delivery.

Curricula must be developed and delivered in partnership with individuals who have expertise in working with equality issues and violence against women.

Training on violence against women issues must be integrated into all existing courses and curricula, rather than given as a single course.

Basic training must cover the nature and harms of inequality and discrimination; the incidence of women abuse; the specific situations and circumstances of women survivors; the characteristics and consequences of violence against women; all forms of violence; sexism; racism; the needs of women with disabilities, elderly women and lesbians; the ways a victim may initiate disclosure or inquiry; barriers to disclosure and how to respond appropriately; violence prevention training, such as non-violent and non-discriminatory methods of resolving conflicts; and self-defence training given by women's organizations.

In-depth training must recognize the risk of harm posed by abusers, including those abusing through a breach of trust; difficulties in identifying and helping abusers; and the potential abuse of survivors' rights and safety in investigation and adjudication processes.

4. THE WOMAN'S SAFETY AUDIT (CANADA)

This extract on the Women's Safety Audit is contained in the publication: "How to build a safer Community for Women - A Handbook for Community Leader" (Federation of Canadian Municipalities) (Canada)

Synopsis

Description. The Metro Action Committee on Public Violence Against Women and Children (METRAC), a Toronto-based, non-profit organization committed to reducing all forms of violence against women and children, has developed a tool which identifies features of the built environment which threaten women's security. Put in the hands of women, this tool gives them the ability to provide elected officials with practical information on the built environment which these politicians require to increase women's public safety.

The Women's Safety Audit looks at a public or semi-public place to note problems which threaten women's safety, such as poor lighting or signage. It begins with women identifying an area to be audited such as a street, a park or a neighbourhood. An audit team, composed of 3 to 7 women, is then formed to do the audit.

Audits usually take about 3 hours. The first half of the time is spent doing the audit while the second half is spent discussing the findings and developing an action plan with recommendations. These recommendations are shared with a city councillor or municipal official responsible for an area the team deems to be unsafe for women.

While the focus of the safety audit is primarily on public or semi-public places, it can also be used to audit policies, practices and services which threaten women's safety. For example, METRAC used the women's safety audit method with the Toronto Transit Commission (TTC) to review its transit policies and programs as well as its physical features.

Resource person or organization to contact for further information
Susan McCrae Vander Voet
Executive Director of METRAC

5. US DOJ DOMESTIC VIOLENCE AWARENESS: WHAT YOU CAN DO (UNITED STATES OF AMERICA)

This booklet is produced by the U.S. Department of Justice and is to show how each individual can do more to combat violence against women. This booklet is for anyone who might be at risk of domestic violence, creating awareness and understanding of the issues surrounding domestic violence.

Synopsis
Extract from the booklet.
National Domestic Violence Hotline
1-800-799-SAFE
TDD 1-800-787-3224

Domestic Violence…What is it?
As domestic violence awareness has increased, it has become evident that abuse can occur within a number of relationships. The laws in many states cover incidents of violence occurring between married couples, as well as abuse of elders by family members, abuse between roommates, dating couples and those in lesbian and gay relationships.
In an abusive relationship, the abuser may use a number of tactics other than physical violence in order to maintain power and control over his or her partner:

Emotional and verbal abuse:
Survivors of domestic violence recount stories of put-downs, public humiliation, name-calling, mind games and manipulation by their partners. Many say that the emotional abuse they have suffered has left the deepest scars.

Isolation:
It is common for an abuser to be extremely jealous, and insist that the victim not see her friends or family members. The resulting feeling of isolation may then be increased for the victim if she loses her job as a result of absenteeism or decreased productivity (which are often associated with people who are experiencing domestic violence).

Threats and Intimidation:
Threats -- including threats of violence, suicide, or of taking away the children -- are a very common tactic employed by the batterer.
The existence of emotional and verbal abuse, attempts to isolate, and threats and intimidation within a relationship may be an indication that physical abuse is to follow. Even if they are not accompanied by physical abuse, the effect of these incidents must not be minimized. Many of the resources listed in this book have information available for people who are involved with an emotionally abusive intimate partner.
For additional information on the domestic violence definitions and laws in your state, please contact the state resource listed in the back of this book.

Who are the victims?
- Women were attacked about six times more often by offenders with whom they had an intimate relationship than were male violence victims.
- Nearly 30 percent of all female homicide victims were known to have been killed by their husbands, former husbands or boyfriends.
- In contrast, just over 3 percent of male homicide victims were known to have been killed by their wives, former wives or girl friends.
- Husbands, former husbands, boyfriends and ex-boyfriends committed more than one million violent acts against women.
- Family members or other people they knew committed more than 2.7 million violent crimes against women.
- Husbands, former husbands, boyfriends and ex-boyfriends committed 26 percent of rapes and sexual assaults.
- Forty-five percent of all violent attacks against female victims 12 years old and older by multiple offenders involve offenders they know.
- The rate of intimate-offender attacks on women separated from their husbands was about three times higher than that of divorced women and about 25 times higher than that of married women.
- Women of all races were equally vulnerable to attacks by intimates.
- Female victims of violence were more likely to be injured when attacked by someone they knew than female victims of violence who were attacked by strangers.

Myths Feed Denial About Family Violence
Myth: Family violence is rare...
Truth: Although statistics on family violence are not precise, it's clear that millions of children, women and even men are abused physically by family members and other intimates.

Myth: Family violence is confined to the lower classes...

Truth: Reports from police records, victim services, and academic studies show domestic violence exists equally in every socio-economic group, regardless of race or culture.

Myth: Alcohol and drug abuse are the real causes of violence in the home...
Truth: Because many male batterers also abuse alcohol and other drugs, it's easy to conclude that these substances may cause domestic violence. They apparently do increase the lethality of the violence, but they also offer the batterer another excuse to evade responsibility for his behaviour. The abusive man -- and men are the abusers in the overwhelming majority of domestic violence incidents -- typically controls his actions, even when drunk or high, by choosing a time and place for the assaults to take place in private and go undetected. In addition, successful completion of a drug treatment program does not guarantee an end to battering. Domestic violence and substance abuse are two different problems that should be treated separately.

Myth: Battered wives like being hit, otherwise they would leave...
Truth: The most common response to battering - Why doesn't she just leave?"-- ignores economic and social realities facing many women. Shelter are often full, and family, friends and the workplace are frequently less than fully supportive. Faced with rent and utility deposits, day care, health insurance, and other basic expenses, the woman may feel that she cannot support herself and her children. Moreover, in some instances, the woman may be increasing the chances of physical harm or even death if she leaves an abusive spouse.

What Can you Say to a Victim?
- I'm afraid for your safety.
- I'm afraid for the safety of your children.
- It will only get worse.
- We're here for you when you are ready or when you are able to leave.
- You deserve better than this.
- Let's figure out a safety plan for you.

(Adapted from: Sarah Bue L Esq., in "Courts and Communities: Confronting Violence in the Family," Conference Highlights, National Council of Juvenile and Family Court Judges, 1994.)

What is a Safety Plan?
Every individual in an abusive relationship needs a safety plan. The District of Columbia Coalition Against Domestic Violence has published a wallet-sized card that gives names and phone numbers of shelters, legal services, and support groups, and lists basic elements of a safety plan. (The number is listed in the back.) Shelters and crisis counsellors have been urging safety plans for years, and police departments, victim services, hospitals, and courts have adopted this strategy. Safety plans should be individualized - for example, taking account of age, marital status, whether children are involved, geographic location, and resources available - but still contain common elements.

When creating a safety plan:
- Think about all possible escape routes. Doors, first-floor windows, basement exits, elevators, stairwells. Rehearse if possible.
- Choose a place to go. To the home of a friend or relative who will offer unconditional support, or a motel or hotel, or a shelter - most importantly somewhere you will feel safe.
- Pack a survival kit. Money for cab fare, a change of clothes, extra house and car keys, birth certificates, passports, medications and copies of prescriptions, insurance information, chequebook, credit cards, legal documents such as separation agreements and protection orders, address books, and valuable jewellery, and papers that show jointly owned assets. Conceal it in the home or leave it with a trusted neighbour, friend, or relative. Important papers can also be left in a bank deposit box.
- Try to start an individual savings account. Have statements sent to a trusted relative or friend.
- Avoid arguments with the abuser in areas with potential weapons. Kitchen, garage, or in small spaces without access to an outside door.
- Know the telephone number of the domestic violence hotline. Contact it for information on resources and legal rights.
- Review the safety plan monthly.

What Can Each of Us Do?
- Call the police if you see or hear evidence of domestic violence
- Speak out publicly against domestic violence.

- Take action personally against domestic violence when a neighbour, a co-worker, a friend, or a family member is involved or being abused.
- Encourage your neighbourhood watch or block association to become as concerned with watching out for domestic violence as with burglaries and other crimes.
- Reach out to support someone whom you believe is a victim of domestic violence and/or talk with a person you believe is being abusive.
- Help others become informed, by inviting speakers to your church, professional organization, civic group, or work-place.
- Support domestic violence counselling programs and shelters.

(Pages 9 and 10 adapted from: "Preventing Domestic Violence" by Laura Crites in Prevention Communiqué, March 1992, Crime Prevention Division, Department of the Attorney General, Hawaii.)

What Can Communities Do To Prevent Domestic Violence?

- Expand education and awareness efforts to increase positive attitudes toward non-violence and encourage individuals to report family violence.
- Form coordinating councils or task forces to assess the problem, develop an action plan, and monitor progress.
- Mandate training in domestic violence for all social services and criminal justice professionals.
- Advocate laws and judicial procedures at the state and local levels that support and protect battered women.
- Establish centers where visits between batterers and their children may be supervised, for the children's safety.
- Fund shelters adequately.
- Recruit and train volunteers to staff hotlines, accompany victims to court, and provide administrative support to shelters and victim services.
- Improve collection of child support.
- Establish medical protocols to help physicians and other health care personnel identify and help victims of domestic abuse.
- Provide legal representation for victims of domestic violence.
- Advocate for the accessibility of services for all population groups, especially undeserved populations which include immigrants and refugees, gays and lesbians, racial and ethnic minorities and the disabled.

(Adapted from: "Preventing Violence Against Women: Not Just A Women's Issue," the National Crime Prevention Council, 1995)

Domestic Violence and the Workplace

As awareness about domestic violence has grown, so has the recognition that this crime has a major impact in the workplace. The abuse an employee receives at home can lead to lost productivity, higher stress, increased absenteeism and higher health care costs. A 1994 survey of senior corporate executives conducted by Roper Starch Worldwide on behalf of Liz Claiborne, Inc. found that:

- Fifty-seven percent believe domestic violence is a major problem in society.
- One-third thought this problem had a negative impact on their bottom lines.
- Four out of ten executives surveyed were personally aware of employees and other individuals affected by domestic violence.

To ensure that the Federal government will be a leader in educating employees about the serious implications of domestic violence, President Clinton has directed the heads of every Federal department to conduct employee awareness campaigns on the issue. Similar programs are under-way in corporate America, led by companies such as the Polaroid Corporation, MarshalIs Inc., Liz Claiborne Inc., and Aetna.

Where Can I Get Help?

This resource book is another step in the Federal Employee Awareness Campaign on Domestic Violence, the goal of which is to educate and foster awareness about domestic violence for United States government employees worldwide.

Through this campaign, we hope to put people in touch with resources, such as Employee Assistance Programs (EAP) and publications which will be helpful in combating the crime of domestic violence. On February 21, 1996, President Clinton announced a nation-wide, 24-hour, toll-free domestic violence hotline. The number is 1-800-799-SAFE and the TDD number for the hearing impaired is 1-800-787-3224. Help is also available to callers in Spanish and to other non-English speakers.

The hotline provides immediate crisis intervention for those in need. Callers can receive counselling and be referred directly to help in their communities, including emergency services and shelters. Also, operators can offer

information and referrals, counselling and assistance in reporting abuse to survivors of domestic violence, family members, neighbours, and the general public.
In many areas, there are local domestic violence agencies which can provide crisis services such as shelter, counselling, and legal assistance. These numbers can be obtained from state or regional coalitions, from the phone book, or by calling information.
Your department's Employee Assistance Program can also provide you with assistance and referrals, support groups, counselling and other services.
This booklet contains a list of state, regional, and national resources which can be of assistance.

6. THE COMMUNITY KIT (CANADA)

The Community Kit is a resource book that offers any ideas, approaches and tools to help communities work together to prevent violence and improve services in the community. Community Stories: Taking Action on Violence Against Women provides some real-life examples. It is written in the voices of the women and men who used the kit between January and March 1994. The extract on the Community Kit is from a book which describes the experiences of people in 10 communities across Canada as they used The Community Kit to take action on violence against women.

The Community Kit was created by the Canadian Panel on Violence Against Women in 1993. The kit contains information on how to organize community action group, how to assess services and programs for women in the community, and how to use this information to develop a plan of action that will make the community a safer place for women - one that is better able to provide support to victims of violence. The Community Kit is available alone or with the other Panel materials, from the Canada Communication Group.

Each community is distinct - from 1,000 people in Aklavik, Northwest Territories, to 327,00 (people in Halifax/Dartmouth, to a rural community in Ontario, to a low-income neighbourhood in Winnipeg. As concerned community members and women's activists, the people who participated in this project are committed to ending violence against women. Some work in shelters, sexual assault centres and immigrant women's organizations; other are community members who are concerned about violence. For a few, this was their first experience working directly on the issue of violence, although they have been active in rural organizations, counselling agencies or disabled women's networks.

The Community Kit is organized into two main sections. Part One guides you in organizing a community action group and creating a profile of you community. It includes tools such as:

- Putting Together a Community Action Group;
- Gathering Statistics on Violence Against Women;
- a Service Questionnaire to create a profile of community agencies; and
- a Women's Safety Audit Guide and Safety Audit

Part Two helps you to decide, as a community, what to do to address violence against women. It includes:

- a Facilitator's Guide;
- a seven-section Workbook; and
- Sample Worksheets.

The workbook and worksheets are organized around the following sectors:

- Shelters, Second-Stage Housing and Healing Centres;
- Community and Social Support Services;
- Health and Wellness Services;
- Education and Prevention;
- Police and Legal Services;
- Workplaces and the Environment; and
- Media, Arts and Culture.

The Community Kit also contains information on the Concept of Zero Tolerance, signs of oppression and abuse in relationships, some community models and additional resources.

Resource person or organization to contact for further information
Community Kits are available from:
Canada Communication Group - Publishing
Ottawa, Ontario, K1A 0S9
Tel: 819-956-4802
Fax: 819-994-1498

7. EDUCATION AS A TOOL TO COMBAT VIOLENCE AGAINST WOMEN: "PASSPORT TO EQUALITY" (UNESCO)

In order to implement and inform the public about the Convention on the Elimination of Discrimination Against Women (CEDAW) which deals with women's rights, especially women's fundamental right to education, focus is placed on introducing legal literacy at all levels of education (popularizing the CEDAW convention and accompanying it with information in national laws, of particular concern to women and girls, also its promotion through schools). In collaboration with numerous NGOs, the Passport to Equality, a passport size CEDAW was reproduced by UNESCO in March 1998 (French, English and Spanish), to commemorate International Women's Day, and distributed widely throughout UNESCO Field Offices, NGOs, international press and other partners. Due to its successful dissemination and interest received (coverage by Voice of America, Radio France Internationale, Le Monde), there are plans to develop a more personalized version of the passport, to make them available in other languages including vernacular languages, and to create a more popular - easy to comprehend version of the convention for girls and neo-literate women. Since, UNESCO' s Field Offices are using the Passports in the context of regional campaigns celebrating the Universal Declaration of Human Rights. Various NGOs such as the International Federation of Women in Legal Professions (IFLP) are also distributing them to their members as a basis for awareness-raising initiatives.

Resource person or organization to contact for further information
Susana Sam-Vargas
UNESCO
7 place du Fontenoy
75352 Paris 07 SP
e-mail: s.sam-vargas@unesco.org
www.unesco.org

8. RAISING AWARENESS: "DOMESTIC VIOLENCE WORKPLACE EDUCATION DAY" (UNITED STATES OF AMERICA)

On October 1st, 1998 dozens of private businesses, public agencies, and unions, that collectively employ millions of people, held programs and distributed materials that alert employees to the prevalence and severity of domestic violence. The support and enthusiasm from employers of all sizes and types, in every part of the country, far exceeded our expectations.

Domestic Violence Workplace Education Day was made possible by the support of the rounding members of the National Workplace Resource Center on Domestic Violence, a project of the Family Violence Prevention Fund: Aetna Inc., American Council of Life Insurance, American Federation of State, County and Municipal Employees, Bank of America, Bechtel, Food Marketing Institute, Kaiser Permanente, Levi Strauss, Liz Claiborne, MarshalIs, Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC, National Association of Manufacturers, Polaroid, Reebok, Service Employees International Union, The Body Shop, The Gap, and Wells Fargo Bank.

Some of the highlights of Domestic Violence Workplace Education Day included the following:

- MarshalIs, a leading off-price family retailer, distributed the Family Violence Preventions Fund's personal action kits to all 65,000 employees and placed materials in women's restrooms in all its stores.
- David Lawrence, CEO of Kaiser Permanente, spoke at a lunchtime event at the corporate headquarters in Oakland, California.
- The Gap distributed victim safety cards, informational materials and displayed posters at corporate headquarters

in San Francisco, San Bruno, and New York.

- Polaroid held a series of lunchtime seminars on the impact of family violence in the workplace and conducted a training for the employees of the City of Lowell, Massachusetts.
- The American Federation of State, County, and Municipal Employees, Service Employees International Union, AFL-CIO, and Coalition of Labour Women Union, distributed Workplace Education Day kits and posters to over 600 union leaders and activists throughout the country. The poster outlines how unions can take action to prevent domestic violence.
- Target stores held educational events at its corporate headquarters in the Minneapolis area, displayed posters on domestic violence in offices, placed brochures on domestic violence in company restrooms, and distributed information to its 140,000 employees throughout the nation.
- Bell/Atlantic/NYNEX Mobile issued educational e-mails to its more than 6,000 employees every day for a week to heighten their awareness of domestic violence and mobilize them to take action.
- Reebok distributed t-shirts on domestic violence to employees, invited a police officer to lecture to employees about domestic violence, and held a self-defense class for employees.
- Liz Claiborne distributed informational materials to employees suggesting action steps for men and women to take to end abuse.
- The American Council of Life Insurance circulated the I0 Steps to Take in the Workplace to End Domestic Violence and urged their members to participate in Workplace Education Day.
- Bank of America included information about the FUND's website and Employee Assistance Program resources in an Employee Newsletter.
- Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC held a leadership breakfast for CEOs regarding domestic violence and distributed Workplace Education Day organizing kits to attendees.
- Aetna sponsored the exhibition of the 'Clothesline' art show, a display of more than 100 tee-shirts decorated with artwork by survivors of domestic and sexual violence, and included an article on domestic violence in a company publication.
- Attorney General, Janet Reno, spoke to Department of Justice employees on October 1st at a domestic violence information fair.
- Florida Governor Lawton Chiles announced a model domestic violence policy and held educational events for employees on October 1. Washington Governor Mike Lowry announced model domestic violence policies for state employees. Lowry also distributed pamphlets and displayed 15,000 FUND posters on battering in state offices.
- In a joint announcement with four local unions, Los Angeles City Attorney, James K. Hahn presented the Workplace Domestic Violence Policy for employees of the City Attorney.
- Cascade Engineering, in Grand Rapids, Michigan distributed materials and held breakfast and lunchtime educational sessions for employees.
- Courts throughout New York state held educational events on October 1st.
- Acme Materials and Construction Co., of Spokane, Washington conducted a colouring contest for children of employees and gave prizes to the child with the best picture of a happy family, displayed posters on battering at work sites, and collected donations for a local domestic violence agency.

This represents only a fraction of Workplace Education Day events. A full list of participants is attached. All the events were made possible by your hard work and by the generous leadership of the rounding members of the National Workplace Resource Center on Domestic Violence.

Resource person or organization to contact for further information
Workplace Education Day Organisation Kit
Tel: 415 252-8900

9. THE WOMEN'S HUMAN RIGHTS TRAINING INITIATIVE (UNITED STATES OF AMERICA)

Improving Women's Human Rights Advocacy Capacity
WLD International and the Human Rights Watch Women' s Rights Project (HRW/WRP), produced a how-to manual, Women's Human Rights Step by Step: A Practical Guide to Using Human Rights Law and Mechanisms to Defend Women's Human Rights. This manual was designed as an educational tool and a resource to:

- help advocates determine the relevance and importance of human rights law and mechanisms in the promotion and defense of women' s rights nationally and internationally);
- provide information on how to use the human rights system at national, regional and international levels;
- explain in some detail the importance and methods of documenting and reporting violations of women's human rights;
- outline key strategies that can be used to promote women's human rights;
- show, through cases and experiences, how women 's human rights advocates are using the human rights system successfully to defend their rights.

WLD International and Human Rights Watch recognize that however useful the manual might be as a resource, its utility as a powerful educational tool depends on thorough training in its use. A second step, therefore, in helping to develop a more skilled and larger corps of women's human rights advocates is to train individuals and groups directly in the substance and the practice of international law and human rights advocacy. In this way, advocates can become conceptually and practically conversant with the human rights system and human rights advocacy and apply this approach to their particular country contexts their unique situational contingencies to emerging human rights norms and practices of women's human rights.

The Women's Human Rights Training Initiative

This project aims to enhance and expand the corps of skills human rights advocates throughout the world. Using the Women's Human Rights Step by Step manual as framework for training, WLD International, in close collaboration with the Human Rights Watch Women's Rights Project, has launched a human rights capacity building initiative to be carried out on a regional basis in Africa, Asia, Latin America, the Middle East, Central and Eastern Europe and the FSU. Working with local partner organizations, the project aims to contribute significantly to strengthening the skills of women in the region to promote and defend their human rights.

Objectives:

The objectives of the project are:

- to strengthen the skills of advocacy groups in the region to design and carry out effective women's human rights advocacy strategies;
- to strengthen the organizational ability of regional or national groups and networks (such as the East Legal Coalition, WiLDAF, APWLD, etc.) to provide effective training, guidance and orientation to local groups throughout the region on women's rights advocacy;
- to strengthen the capacity of these groups and networks to be influential institutional advocates
- for women's rights in these regions in national, regional and international fora.

Program:

Core program

The core program consists of three one-week training sessions in each sub-region over a period of two years. For the purposes of putting the training into practice, participants will plan and implement at least one organizational strategy to promote or defend women' s human rights in their countries of origin. This task will require participants to provide the leadership needed to engage appropriate support at the local or national levels. Between the training sessions, the training team will offer follow-up advice, feedback and technical assistance as needed in the implementation of these strategies. This will be accomplished through site visits, provision of information through electronic or other means to be developed and adapted to the circumstances.

Content and Approach

The core curriculum will be based on the Women's Human Rights Step by Step manual, with the key thematic areas including:

- the main concepts of human rights law;
- understanding the structure and process of the human rights system and how to access and use selected human rights mechanisms;
- structuring a process for developing locally appropriate strategies geared towards promoting or defending women's human rights; and
- planning and carrying out an investigatory mission to document abuses.

Trainers will be drawn from WLD International, Human Rights Watch and a roster of international experts in the field of women's human rights. In addition, one trainer and one apprentice trainer from the Region will be part of the team for each of the workshops. This is to assure that after two years, there will be a core of human rights advocacy trainers in the region, in addition to the activists.

The training will incorporate the input of the local partners in order to adapt it to each specific regional context. In order to consolidate learning by participants and produce strategies that suit specific circumstances, the training will provide participants with ideas, information and suggestions to assist them in assimilating the training content and applying it to their own particular context. Trainers will offer advice, information and an orientation to human rights strategy building, helping the participants to make relevant choices to carry out their strategies. In order to make the content of the training relevant to participants it will include well defined case studies and problems that may be applicable in more than one country. The methodology of the training will be participatory and rooted in "real life" problems participant' s face in their own work.

Expected results
As a result of the training:
1. there will be a core of activists in the region who will be able to understand and manage:

- issues that need to be considered and decisions that should be made when crafting a women's human rights advocacy strategy,
- components that should be included in a strategy,
- advantages and disadvantages of various approaches,
- creative ways to use human rights mechanisms, and
- how to do rigorous fact-finding and documentation of violations as well as to monitor on-going human rights performance; and

2. in each of the countries represented by the participants at least one advocacy strategy at national or international level will have been undertaken.

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APPENDIX I. TEXT OF THE MODEL STRATEGIES

MODEL STRATEGIES AND PRACTICAL MEASURES ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

1. The multifaceted nature of violence against women suggests that different strategies are required for different manifestations of violence and the various settings in which it occurs. The practical measures, strategies and activities described below can be introduced in the field of crime prevention and criminal justice to deal with the problem of violence against women. Except where otherwise specified, the term "women" encompasses "girl children".
2. Recalling the definition of violence against women in the Declaration on the Elimination of Violence against Women[1] and reiterated in the Platform for Action adopted by the Fourth World Conference on Women, held at Beijing from 4 to 15 September 1995,[2] the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice build on the measures adopted by Governments in the Platform for Action, bearing in mind that some groups of women are especially vulnerable to violence.
3. The Model Strategies and Practical Measures specifically acknowledge the need for an active policy of bringing into the mainstream a gender perspective in all policies and programmes related to violence against women and of achieving gender equality and equal and fair access to justice, as well as establishing the goal of gender balance in areas of decision-making related to the elimination of violence against women. The Model Strategies and Practical Measures should be applied as guidelines in a manner consistent with relevant international instruments, including the Convention on the Elimination of All Forms of Discrimination against Women,[3] the Convention on the Rights of the Child[4] and the International Covenant on Civil and Political Rights,[5] with a view to furthering their fair and effective implementation.
4. The Model Strategies and Practical Measures should be implemented by Member States and other entities, without prejudice to the principle of gender equality before the law, in order to facilitate the efforts by Governments to deal with, within the criminal justice system, the various manifestations of violence against women.
5. The Model Strategies and Practical Measures are aimed at providing *de jure* and *de facto* equality between women and men. The Model Strategies and Practical Measures do not give preferential treatment to women but are aimed at ensuring that any inequalities or forms of discrimination that women face in achieving access to justice, particularly in respect of acts of violence, are redressed.

I. CRIMINAL LAW

6. Member States are urged:

(a) To periodically review, evaluate and revise their laws, codes and procedures, especially their criminal laws, to ensure their value and effectiveness in eliminating violence against women and remove provisions that allow for or condone violence against women;

(b) To review, evaluate and revise their criminal and civil laws, within the framework of their national legal systems, in order to ensure that all acts of violence against women are prohibited and, if not, to adopt measures to do so;

(c) To review, evaluate and revise their criminal laws in order to ensure that:

(i) Persons who are brought before the courts on judicial matters in respect of violent crimes or who are convicted of such crimes can be restricted in their possession and use of firearms and other regulated weapons, within the framework of their national legal systems;

(ii) Individuals can be prohibited or restrained, within the framework of their national legal systems, from harassing, intimidating or threatening women.

II. CRIMINAL PROCEDURE

7. Member States are urged to review, evaluate and revise their criminal procedure, as appropriate, in order to ensure that:

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[1] General Assembly resolution 48/104 of 20 December 1993.
[2] *Report of the Fourth World Conference on Women, Beijing, 4-15 September 1995* (A/CONF.177/20 and Add.1), chap.I, resolution 1, annex II.
[3] General Assembly resolution 34/180, annex, of 18 December 1979.
[4] General Assembly Resolution 44/25, annex, of 20 November 1989.
[5] General Assembly resolution 2200 A (XXI), annex, of 16 December 1966.

(a) The police have, with judicial authorization where required by national law, adequate powers to enter premises and conduct arrests in cases of violence against women, including confiscation of weapons;
(b) The primary responsibility for initiating prosecutions lies with prosecution authorities and does not rest with women subjected to violence;
(c) Women subjected to violence have an opportunity to testify in court proceedings equal to that of other witnesses and that measures are available to facilitate such testimony and to protect their privacy;
(d) Rules and principles of defence do not discriminate against women, and such defences as honour or provocation do not allow perpetrators of violence against women to escape all criminal responsibility;
(e) Perpetrators who commit acts of violence against women while voluntarily under the influence of alcohol or drugs are not absolved of all criminal or other responsibility;
(f) Evidence of prior acts of violence, abuse, stalking and exploitation by the perpetrator is considered during court proceedings, in accordance with the principles of national criminal law;
(g) The courts have, subject to the national constitution of their State, the authority to issue protection and restraining orders in cases of violence against women, including removal of the perpetrator from the domicile, prohibiting further contact with the victim and other affected parties, inside and outside of the domicile, and to impose penalties for breaches of these orders;
(h) Measures can be taken when necessary to ensure the safety of victims and their families and to protect them from intimidation and retaliation;
(i) Safety risks are taken into account in decisions concerning non- or quasi-custodial sentences, the granting of bail, conditional release, parole or probation.

III. POLICE

8. Member States are urged, within the framework of their national legal systems:

(a) To ensure that the applicable provisions of laws, codes and procedures related to violence against women are consistently enforced in such a way that all criminal acts of violence against women are recognized and responded to accordingly by the criminal justice system;
(b) To develop investigative techniques that do not degrade women subjected to violence and minimize intrusion, while maintaining standards for the collection of the best evidence;
(c) To ensure that police procedures, including decisions on the arrest, detention and terms of any form of release of the perpetrator, take into account the need for the safety of the victim and others related through family, socially or otherwise and that these procedures also prevent further acts of violence;
(d) To empower the police to respond promptly to incidents of violence against women;
(e) To ensure that the exercise of police powers is undertaken according to the rule of law and codes of conduct and that the police may be held accountable for any infringement thereof;
(f) To encourage women to join police forces, including at the operational level.

IV. SENTENCING AND CORRECTIONS

9. Member States are urged, as appropriate:

(a) To review, evaluate and revise sentencing policies and procedures in order to ensure that they meet the goals of:
(i) Holding offenders accountable for their acts related to violence against women;
(ii) Stopping violent behaviour;
(iii) Taking into account the impact on victims and their family members of sentences imposed on perpetrators who are members of their families;
(iv) Promoting sanctions that are comparable to those for other violent crimes.
(b) To ensure that a women subjected to violence is notified of any release of the offender from detention or imprisonment where the safety of the victim in such disclosure outweighs invasion of the offender's privacy;
(c) To take into account in the sentencing process the severity of the physical and psychological harm and the impact of victimization, including through victim impact statements where such practices are permitted by law;
(d) To make available to the courts through legislation a full range of sentencing dispositions to protect the victim, other affected persons and society from further violence;
(e) To ensure that the sentencing judge is encouraged to recommend treatment of the offender at the time of sentencing;
(f) To ensure that there are appropriate measures in place to eliminate violence against women who are detained for any reason;

(g) To develop and evaluate offender treatment programmes for different types of offenders and offender profiles;

(h) To protect the safety of victims and witnesses before, during and after criminal proceedings.

V. VICTIM SUPPORT AND ASSISTANCE

10. Member States are urged, as appropriate:

(a) To make available to women who have been subjected to violence information on rights and remedies and on how to obtain them, in addition to information about participating in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings;

(b) To encourage and assist women subjected to violence in lodging and following through on formal complaints;

(c) To ensure that women subjected to violence receive, through formal and informal procedures, prompt and fair redress for the harm that they have suffered, including the right to seek restitution or compensation from the offenders or the State;

(d) To provide for court mechanisms and procedures that are accessible and sensitive to the needs of women subjected to violence and that ensure the fair processing of cases;

(e) To establish a registration system for judicial protection and restraining orders, where such orders are permitted by national law, so that police or criminal justice officials can quickly determine whether such an order is in force.

VI. HEALTH AND SOCIAL SERVICES

11. Member States, in cooperation with the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate:

(a) To establish, fund and coordinate a sustainable network of accessible facilities and services for emergency and temporary residential accommodation for women and their children who are at risk of becoming or who have been victims of violence;

(b) To establish, fund and coordinate services such as toll-free information lines, professional multi-disciplinary counselling and crisis intervention services and support groups in order to benefit women who are victims of violence and their children;

(c) To design and sponsor programmes to caution against and prevent alcohol and substance abuse, given the frequent presence of alcohol and substance abuse in incidents of violence against women;

(d) To establish better linkages between medical services, both private and emergency, and criminal justice agencies for purposes of reporting, recording and responding to acts of violence against women;

(e) To develop model procedures to help participants in the criminal justice system to deal with women subjected to violence;

(f) To establish, where possible, specialized units with persons from relevant disciplines especially trained to deal with the complexities and victim sensitivities involved in cases of violence against women.

VII. TRAINING

12. Member States, in cooperation with non-governmental organizations, including organizations seeking women's equality, and in collaboration with relevant professional associations, are urged, as appropriate:

(a) To provide for or encourage mandatory cross-cultural and gender-sensitivity training modules for police, criminal justice officials, practitioners and professionals involved in the criminal justice system that deal with the unacceptability of violence against women, its impact and consequences and that promote an adequate response to the issue of violence against women;

(b) To ensure adequate training, sensitivity and education of police, criminal justice officials, practitioners and professionals involved in the criminal justice system regarding all relevant human rights instruments;

(c) To encourage professional associations to develop enforceable standards of practice and behaviour for practitioners involved in the criminal justice system, which promote justice and equality for women.

VIII. RESEARCH AND EVALUATION

13. Member States and the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, relevant entities of the United Nations system, other relevant international organizations, research institutes, non-governmental organizations, including organizations seeking women's equality, are urged, as appropriate:

(a) To develop crime surveys on the nature and extent of violence against women;

(b) To gather data and information on a gender-disaggregated basis for analysis and use, together with existing data, in needs assessment, decision-making and policy-making in the field of crime prevention and criminal justice, in particular concerning:

(i) The different forms of violence against women, its causes and consequences;

(ii) The extent to which economic deprivation and exploitation are linked to violence against women;

(iii) The relationship between the victim and the offender;

(iv) The rehabilitative or anti-recidivistic effect of various types of intervention on the individual offender and on the reduction of violence against women;

(v) The use of firearms, drugs and alcohol, particularly in cases of violence against women in situations of domestic violence;

(vi) The relationship between victimization or exposure to violence and subsequent violent activity;

(c) To monitor and issue annual reports on the incidence of violence against women, arrest and clearance rates, prosecution and case disposition of the offenders;

(d) To evaluate the efficiency and effectiveness of the criminal justice system in fulfilling the needs of women subjected to violence.

IX. CRIME PREVENTION MEASURES

14. Member States and the private sector, relevant professional associations, foundations, non-governmental and community organizations, including organizations seeking women's equality, and research institutes are urged, as appropriate:

(a) To develop and implement relevant and effective public awareness and public education and school programmes that prevent violence against women by promoting equality, cooperation, mutual respect and shared responsibilities between women and men;

(b) To develop multidisciplinary and gender-sensitive approaches within public and private entities that participate in the elimination of violence against women, especially through partnerships between law enforcement officials and the services that are specialized in the protection of women victims of violence;

(c) To set up outreach programmes for offenders or persons identified as potential offenders in order to promote the peaceful resolution of conflicts, the management and control of anger and attitude modification about gender roles and relations;

(d) To set up outreach programmes and offer information to women, including victims of violence, about gender roles, the human rights of women and the social, health, legal and economic aspects of violence against women, in order to empower women to protect themselves against all forms of violence;

(e) To develop and disseminate information on the different forms of violence against women and the availability of programmes to deal with that problem, including programmes concerning the peaceful resolution of conflicts, in a manner appropriate to the audience concerned, including in educational institutions at all levels;

(f) To support initiatives of organizations seeking women's equality and non-governmental organizations to raise public awareness of the issue of violence against women and to contribute to its elimination.

15. Member States and the media, media associations, media self-regulatory bodies, schools and other relevant partners, while respecting the freedom of the media, are urged, as appropriate, to develop public awareness campaigns and appropriate measures and mechanisms, such as codes of ethics and self-regulatory measures on media violence, aimed at enhancing respect for the rights of women and discouraging both discrimination against women and stereotyping of women.

X. INTERNATIONAL COOPERATION

16. Member States and United Nations bodies and institutes are urged, as appropriate:

(a) To exchange information concerning successful intervention models and preventive programmes in eliminating violence against women and to compile a directory of those models;

(b) To cooperate and collaborate at the regional and international levels with relevant entities to prevent violence against women and to promote measures to effectively bring perpetrators to justice, through mechanisms of international cooperation and assistance in accordance with national law;

(c) To contribute to and support the United Nations Development Fund for Women in its activities to eliminate violence against women.

17. Member States are urged:

(a) To limit the extent of any reservations to the Convention on the Elimination of All Forms of Discrimination against Women to those that are formulated as precisely and as narrowly as possible and that are not incompatible with the object and purpose of the Convention;

(b) To condemn all violations of the human rights of women in situations of armed conflict, to recognize them as being violations of international human rights and humanitarian law and to call for a particularly effective response to violations of that kind, including in particular murder, systematic rape, sexual slavery and forced pregnancy;

(c) To work actively towards ratification of or accession to the Convention on the Elimination of All Forms of Discrimination against Women, for the States that are still not parties to it, so that universal ratification can be achieved by the year 2000;

(d) To give full consideration to integrating a gender perspective in the drafting of the statute of the international criminal court, particularly in respect of women who are victims of violence;

(e) To cooperate with and assist the Special Rapporteur on violence against women, its causes and consequences in the performance of his or her mandated tasks and duties, to supply all information requested and to respond to the Special Rapporteur's visits and communications.

XI. FOLLOW-UP ACTIVITIES

18. Member States and United Nations bodies subject to extrabudgetary funds, the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, other relevant international organizations, research institutes, non-governmental organizations, including organizations seeking women's equality, are urged, as appropriate:

(a) To encourage the translation of the Model Strategies and Practical Measures into local languages and to ensure its wide dissemination for use in training and education programmes;

(b) To utilize the Model Strategies and Practical Measures as a basis, a policy reference and a practical guide for activities aimed at eliminating violence against women;

(c) To assist Governments, at their request, in reviewing, evaluating and revising their criminal justice systems, including their criminal legislation, on the basis of the Model Strategies and Practical Measures;

(d) To support the technical cooperation activities of the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network in eliminating violence against women;

(e) To develop coordinated national, regional and subregional plans and programmes to put the Model Strategies and Practical Measures into effect;

(f) To design standard training programmes and manuals for the police and criminal justice officials, based on the Model Strategies and Practical Measures;

(g) To periodically review and monitor, at the national and international levels, progress made in terms of plans, programmes and initiatives to eliminate violence against women in the context of the Model Strategies and Practical Measures.

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