

**FREEDOM OF INFORMATION AND PROTECTION  
OF PRIVACY LEGISLATION IN BRITISH  
COLUMBIA:  
IDENTIFYING QUESTIONS AND CONCERNS**

**Prepared for:  
BC Association of Specialized Victim Assistance &  
Counselling Programs**

**Prepared by:**  
Sandra A. Goundry, B.A., LL.B.  
Legal Consulting and Research Services  
#401 - 1120 Hamilton Street  
Vancouver, B.C. V6B 2S2

**With Funding Assistance from:**  
  
**The Ministry of Women's Equality  
The Ministry of Attorney General**

**1999**

## DISCUSSION PAPER

### INTRODUCTION

Present policy of the Criminal Justice Branch of the Ministry of the Attorney General prohibits the disclosure of victims names and contact details to specialized victim assistance services for the purpose of providing confidential assistance, emotional support, advocacy, safety planning and other intervention services. This relatively recent policy is based on a restrictive interpretation of sections 33 and 34 of the *British Columbia Freedom of Information and Protection of Privacy Act* (FOIPPA). As such it fails to take into account the specific context and social reality of violence against women and children .

The purpose of this Discussion Paper is to illustrate for the Legislative Review Committee the serious negative implications of this policy for women and children victims of sexual assault, child (sexual) abuse and relationship violence. The focus of this Discussion Paper is on providing the Committee with an understanding of the seriousness and the urgency of the issue and the arguments in support of equality promoting amendments to that same legislation. With this background, it is our hope that the Committee will be in a better position to make an informed decision regarding the need for immediate action.

In short, the implications of this policy of non disclosure are enormous with the very real potential to compromise women and children victims rights to equality, security and safety. The policy has the effect of protecting women and children victims privacy rights while sacrificing their rights to meaningful access to appropriate victim assistance services and therefore, safety planning.

The B.C. Association of Specialized Victim Assistance & Counselling Programs (BCASVACP ) is a supporter of and advocate for strong confidentiality provisions with respect to the disclosure of victim related information in the context of the criminal justice system. However, this support does not extend to provisions which have the effect of isolating women who have experienced violence or jeopardizing women and children's safety and well being because of the creation of unjustifiable, inadvertent though they may be, access barriers to specialized victim assistance services.

This legislation has the effect of discounting the partnerships and spirit of collaboration which have been developed and fostered by criminal justice personnel and community based victim services in the process of working toward the common goal of preventing violence against women and children and/or the revictimization that often takes place when the systems involved are not sensitive. Within this context of violence prevention and law enforcement, victims certainly need their privacy protected, but not from specialized victim assistance agencies whose mandate is to offer confidential assistance, safety planning and other intervention services.

It is the position of BCASVACP that the integrity of the criminal justice system is undermined by this shift in government policy stemming from FOIPPA because of the serious negative consequences for victims of sexual assault, child (sexual) abuse and relationship violence. The integral role of SVAPs and other victim serving agencies in a coordinated criminal justice response to serious crime in this province is undermined with the result that victims interests are discounted. Further, since the victims served by these agencies are primarily women and children, there are also concerns that gender bias may be operative because of the lack of full and informed consideration of the adverse effects of this policy on this particular subset of clientele. It is the position of BCASVACP that this legislation has to be revised immediately. In relation to FOIPPA there are at least two principal means to this end, including: broader, gender sensitive, equality promoting interpretations of FOIPP legislative amendments to the FOIPPA which would expressly recognize disclosure of victims personal information to SVAPs as a consistent use without compromising SVAP's independent status from government.

## **THE CONTEXT**

### **a. Roles & Responsibilities of Victim Assistance Programs and Services**

There are three main streams of victim assistance services in British Columbia:

- (I) community based specialized victim assistance services,
- (ii) policebased victim assistance programs, and
- (iii) Crown based victim/witness assistance programs.

All three types of victim serving agencies are funded by, and under contract with, the Ministry of the Attorney General (MAG) but are located at different junctures of the criminal justice system. Each type of service provides either a unique set of services or serves a particular client group in addition to providing core services in the form of justice related information, practical assistance, emotional support and referrals for victims of crime.

BCASVACP represents the range of non profit, community based agencies which provide specialized services to victims of wife assault, sexual assault, criminal harassment and/or child (sexual) abuse across the province. Agencies represented by the Association include approximately 55 non profit, community based victim assistance programs (SVAP) and Sexual Assault and Woman Assault Centres and 80 Stopping the Violence Counselling Programs. BCASVACP agencies have particular expertise to provide information, practical assistance, emotional support and advocacy within the justice system to a broad range of primarily women and children victims of sexual/relationship violence including survivors of historical sexual abuse and criminal harassment. Staff are screened by criminal record checks and bound by confidentiality policies within their agencies. Agency confidentiality policies follow provincial Records Management Guidelines. Community based specialized services are not governed by either the FOIPPA or the federal Privacy as they are not public bodies according to the *Act*. As a result, clients of specialized services can assume that their files are confidential unless ordered released by the court. The files of police and Crown based victim

services, on the other hand, are much more subject to release to various parties because of the application of FOIPPA and Crown policy (based on criminal law procedure which requires full disclosure to defence counsel).

It was the practice of a majority of SVAP to proactively initiate contact with victims of sexual/relationship violence to ensure access to specialized services and safety planning if they choose. This practice was based on years of experience with and research on the needs of women and children victims of violence. In the recent past the merits of this practice were recognized by other stake holders such as police and Crown Counsel in the criminal justice system who facilitated contact by providing SVAP with either (i) direct referrals which contained victims names and contact information or (ii) access to Reports to Crown Counsel. Historically, SVAPs throughout the province have worked in close cooperation with Crown and police based services to ensure victims received information and support they require as early as possible from an SVAP employee with specialized training and knowledge.

## **b. Violence Against Women and Experiences with the Criminal Justice System**

The following statistics and research findings are instructive for the purpose of examining this issue within its broader social and legal context in relation to the prevalence of violence against women and children in Canada:

One in two Canadian women (51%) experiences at least once incident of male violence after the age of 16. (Statistics Canada, Violence Against Women Survey.

One million women are abused physically by their husbands or partners each year. (CACSW, 1991)

The majority of women murdered in Canada in 1990 died as a result of wife assault.– (CACSW, 1991)

The highest rate of violence (59%) in Canada is reported by women in British Columbia– (Statistics Canada, Violence Against Women Survey, 1993).

Only 14% of all incidents of violence are reported to police. More wife assaults are reported than sexual assaults.

Battery occurs an average of 35 times before police are involved; police become involved in only 10% of cases of wife battery. (Family Violence: Breaking the Cycle, 1991)

Canadian women leave their abusive partners approximately 5 times before making a permanent break; and police can be involved as many as 30 times per year in a single wife abuse case. (Family Violence: Breaking the Cycle, 1991)

Linda Macleod's 1985 study in London, Ontario found that victims required multiple services such as referrals, counselling and accompaniment to court. (Macleod, 1987)

According to victims interviewed as part of Edmonton's 1992 Family Violence Follow Up Team Project, when asked if police gave them any information or advice, 30% said that police suggested they obtain a peace bond or restraining order;

21% were given information on community agencies and on the Victim Services Unit;

14% reported that police recommended they stay in a shelter or with a friend or relative; and

12% said they were not given any information or advice.

Statistics show that even though violence against women in all its forms is a prevalent social problem, most people are unlikely to get involved or to call the police to report it. It is likely that between 50,000 and 75,000 school age children in British Columbia have witnessed violence directed against their mothers (Jaffe, 1988).

## **OVERVIEW OF THE ISSUE**

### **Introduction**

The Criminal Justice Branch (CJB) of the Ministry of the Attorney General (MAG) has recently adopted an interpretation of sections 33 and 34 of the FOIPPA which prevents the disclosure of victim's names and contact details by criminal justice personnel to specialized victim assistance programs (SVAP) under contract with the Ministry. It is the position of the Criminal Justice Branch that disclosure of victim information to SVAP does not come within the ambit of the "consistent use" provision of the FOIPPA. The CJB maintains that written consent from the victim is a prerequisite to any such disclosure. As a result, SVAPs no longer receive direct referrals from police nor can they have access to Reports to Crown Counsel for the purpose of responding to victims who are possibly in need of their services.

This interpretation of the FOIPPA effectively undermines the ability of SVAP to fulfill their mandates of providing victims of sexual assault, child (sexual) abuse and/or relationship violence with meaningful and timely opportunities to access available specialized expertise and services. The practice of SVAPs proactively contacting victims of these particular types of offences has arisen out of a demonstrable need.

Clients consistently confirm that a proactive approach is invaluable because they are generally extremely reluctant and/or unable to initiate contact for a wide range of reasons. Some clients report they were never made aware of specialized services and would not have known of their existence unless contacted. Others reveal that they had conflicting feelings and issues with self identification as a victim. Still others point to the fact that they were in shock following the assault and could not have made the initial contact due

to their inability to cope with even the mundane aspects of their lives at the time. Some clients disclose that they were fearful or apprehensive of contacting specialized services because they had difficulty placing their trust in a service with which they were largely unfamiliar.

The ability of SVAPs to provide victims, who are primarily women and children, with the opportunity to decide whether to utilize their services is severely constrained with this interpretation of FOIPPA. As a consequence, many victims of sexual assault, child (sexual) abuse and/or relationship violence will be left without the benefit of support, safety planning, information and advocacy services from the very agencies which have both the mandate, the resources and the specialized expertise to provide those services in a sensitive and appropriate way in the aftermath of an extremely traumatic crime. Given the vast amount of evidence which documents the negative effects of violence on women and children's physical, emotional and psychological well being, the need to use whatever possible means to facilitate contact with specialized victim assistance services seems manifest.

This Discussion Paper is limited to examining the relationship of the FOIPPA to the disclosure of victim related information. In this context it is important to note that since the enactment of FOIPPA, referrals to specialized victims assistance services from Crown and Crown based victim/witness services have declined. To the extent that this decline in referrals from Crown and Crown based victim/witness services is the result of FOIPPA, the arguments outlined in this Discussion Paper apply.

## **Interpretation of FOIPPA**

### **(1) Overview of the Legislation**

The FOIPPA provides both rights to access to information under the custody and control of public bodies and to the protection of individuals personal information from disclosure by these same public bodies. Part 1 of FOIPPA sets out its purposes and scope. Part 2 explains the nature of individuals information rights under the legislation, how to go about exercising them and the exceptions to those access rights. Section 25 of the *Act* provides that information must be disclosed if it is in the public interest to do so. Part 3 of the *Act* sets the parameters for public bodies regarding how personal information in their custody and control can be used and under what circumstances it can be disclosed. Generally, the *Act* provides that public bodies can only use personal information (i) for the purpose for which it was collected unless the affected individual consents to a different use or (ii) for a purpose for which that information may be disclosed to a public body under sections 33 to 36.

The relevant sections for the purposes of this Discussion Paper are sections 33 and 34; they provide:

33. A public body may disclose personal information only for the purpose for

which it was obtained or compiled or for a use consistent with that purpose (see section 34),

34. (1) A use of personal information is consistent under section 32 or 33 with the purposes for which the information was obtained or compiled if the use
- (a) has a reasonable and direct connection to that purpose, and
  - (b) is necessary for performing the statutory duties of, or for operating a legally authorized program of , the public body that uses or discloses the information

## **(2) For the Purpose for Which Personal Information Was Obtained or Compiled**

It is the view of BCASVACP that section 33 has to be interpreted in a way that recognizes the needs and requirements of the victim in the criminal justice process particularly given the adoption of a restorative approach to justice in the province. The interpretation has to take into account the obligation of the criminal justice system to provide timely, coordinated and appropriate services to all victims throughout the process and to work to restore the victim's sense of security and well being. The new restorative justice framework expounds on the efficacy of bringing the victim back to the centre of the process, this present policy of non disclosure has the effect of relegating victims even further into the margins.

It would seem that the first step to ensuring that victims are supported in this process is to broaden our conception of why personal information is obtained or compiled from victims of violence by police in the first place. Most certainly it is to assist with the investigation and possible prosecution of the offence. A complementary purpose of collecting this information is to facilitate the provision of specialized support and intervention services to victims because by doing so government is supporting the victim, ensuring her safety and improving the quality of law enforcement because the victim is more likely to testify.

## **(3) Consistent Use**

The position of the CJB is that SVAPs do not fall within either the "consistent use" provision or any of the exceptions to the general rule of non disclosure as set out in sections 33 and 34 of the FOIPPA. From all accounts, the CJB's position is that disclosure to SVAPs cannot satisfy all the conditions set out in subsection 34 (1)(b). Specifically, the subsection requires that the use of personal information be necessary for operating a legally authorized program of the public body. It would seem that the CJB would be hard pressed to argue that SVAPs are not legally authorized programs given that MAG contracts with SVAPs and Sexual/Woman Assault Centres to provide specialized services to victims.

However, it appears to be the CJB's view that the disclosure of victim's information to SVAPs, whether through referrals or access to Reports to Crown Counsel, is not necessary to their operation. This restrictive interpretation is extremely problematic; it is

unjustifiable because it does not take into account the gendered dynamics of the context within which disclosure is advocated by SVAPs.

The interpretation fails to take account of the realities of victim's experiences particularly in the immediate aftermath of an offence. It is clear that women victims of sexual assault and VAWIR offences require timely and appropriate supportive interventions in order to come forward and report the offences and not be re victimized in the process. It is unconscionable, given what we know of the dynamics of VAWIR offences and sexual assault, to create an unnecessary and ultimately bureaucratic barrier to access services for these women victims based on a technical and restrictive interpretation of FOIPPA. The need for timely, proactive, and supportive interventions has been demonstrated repeatedly and is integral to the safety and well being of victims.

### **The Requirement of Written Consent'**

The argument that it is practicable to obtain the victim's consent to the disclosure (s. 33(c)) is raised to buttress the CJB's view that disclosure is not necessary to the operation of the program. The reliance on this argument further shows that a gender neutral analysis has been utilized which obscures the fact that it is primarily women and children who are victims of sexual assault, child (sexual) abuse, and relationship violence and ignores the fact that the reason many victims come forward is to get help. In addition, this view flies in the face of the experience of the SVAPs and the practical reality that police do not always attempt to obtain written consent at the scene or very soon thereafter. In fact, recent research suggests that police offer only limited assistance to victims in the way of providing additional information and support (see Statistics Section). From the victims perspective, it is precisely at the crime scene or when a victim first comes forward that she needs specialized support.

Studies underline the importance of proactive intervention by specialized services. In the Edmonton Follow Up Project, the Team assumed a proactive stance in selecting and initiating contact with prospective families. Contact was initiated as soon as possible after a crisis in order to capitalize on the time period when a client is most receptive to change. This proactive contact was viewed as very important by many victims who reported that this initial contact confirmed to them that the community cared about them. Many of these women were aware of the danger in their situations, but did not know what to do about it. Nor did they know what types of community agencies might be of assistance. The specialized team assisted in filling in these information gaps with supportive intervention and safety planning. In short as one of the goals of the criminal justice system is the prevention of violence, it seems clear that SVAPs are integral to the criminal justice response to crime.

It would seem that a more considered, balanced and gender sensitive policy would contemplate police informing victims of a somewhat differently framed policy. Specifically, the policy could provide that police are to inform victims of sexual assault, criminal harassment, child (sexual) abuse, and relationship violence that:

- (1) it is their practice to refer/disclose victims names to specialized services in

these types of cases; and  
(2) if the victim does NOT want her identity disclosed, she should make her objection known and sign a disclosure statement.

Framed in this way, such a policy would reflect victims interests and needs in a more realistic and sensitive manner. It would allow specialized victim assistance services to offer their services proactively, while at the same time protecting the privacy rights of those victims who are concerned with the prospect of disclosure to specialized victim serving agencies.

#### **4. THE IMPLICATIONS OF NON DISCLOSURE FOR WOMEN AND CHILDREN VICTIMS AND PUBLIC POLICY**

The implications of non disclosure of victim related information to specialized victim assistance agencies are far reaching ranging from the somewhat obvious in terms of individual victims to broader implications for public policy objectives in relation to law enforcement.

##### **Non Disclosure Compromises Women' s Safety and Undermines the Positive Gains Made Through Violence Against Women in Relationships (VAWIR) Policy and Reformed Sexual Assault Laws**

It is clear that an individuals safety and well being is potentially compromised if she is without the benefit of practical information and support about her experience. She is more likely to return to an unsafe situation if she does not get the opportunity to process her experience and consider her options from a safe, informed and supported vantage point.

The public policy implications are manifest; the implementation of this policy means that the criminal justice system has failed in its responsibility to take all steps to encourage women and children victims to come forward and, at the same time, ensure their safety.

Studies conducted under the Safer Cities Initiatives of the Edmonton Police Service and Community and Family Services show that women victims of relationship violence are more likely to make lasting changes in their lives if they have contact with teams of specialized personnel (See Section 7 for more details). All women are deprived of the benefit of specialized services, including immigrant women and women who do not speak English, if police and Crown personnel are restricted in their ability to make effective and timely referrals to specialized agencies because of this interpretation of the FOIPPA.

Moreover, there is an increasing amount of evidence that supported interventions by specialized personnel increase the likelihood of higher conviction rates and fewer stays of proceedings due to reluctant, terrified or emotionally fragile victims/witnesses being supported. The Edmonton Follow Up Project found that victims, once they felt some

confidence in the ability of the system to provide protection, would cooperate with the police and would be more willing to appear in court as witnesses.

In fiscal terms, the active intervention and support of specialized services is also a cost – effective use of criminal justice dollars.

**The Failure to Disclose Victim related Information to SVAPs Contravenes Victims Rights to Information and Undermines the Stated Goals of the Victims of Crime Act**

Section 5(b) of the B.C. Victims of Crime Act provides that criminal justice personnel must offer a victim general information concerning victim services among other things. In the context of sexual assault, child (sexual) abuse and relationship violence, it is arguable that women and children victims have a right to the delivery of that information in a manner that allows the victim maximum opportunity to consider her options. Otherwise, given the nature of the offences and the demonstrated need for support and assistance, criminal justice personnel are not able to fulfill their responsibilities under the Act.

Section 8 of the Victims of Crime Act provides that the government must promote certain goals to the extent it is practicable. Those stated goals include:

- (a) to develop victim services and promote equal access to victim services at all locations – throughout British Columbia; –
- (b) to have victims adequately protected against intimidation and retaliation; ...
- (c) to have justice system personnel trained to respond appropriately to victims;
- (d) to give proper recognition to the need of victims for timely investigation and prosecution of offences; . and
- (e) to afford victims throughout British Columbia equal access to interpreters for speakers of any language, and culturally sensitive services for aboriginal persons and members of ethno cultural minorities.

By interpreting ss. 33 and 34 of FOIPPA in a narrow and restrictive manner, these goals are subverted, not promoted.

**The Failure to Disclose Victim related Information Seriously Disadvantages Women and Children Victims and Threatens Their Safety and Well being. This Application of FOIPPA Thereby Represents an Infringement of Their Constitutional Rights to Security and Equality**

The present situation where SVAPs do not have access to the information that allows them to provide services to victims of sexual assault, child (sexual) abuse and relationship violence should also be considered in relation to its implications for women's

rights

to security and equality as guaranteed by the *Canadian Charter of Rights and Freedoms*.

Governments are constitutionally bound to refrain from enacting, applying, interpreting or otherwise utilizing legislation and policy in ways that violate the equality and security rights of Canadians. Sections 33 and 34 of the FOIPPA, as presently interpreted and applied in relation to the disclosure of victim related information to SVAP, may be subject to a Charter challenge because of the adverse effect on the safety and well being of women and children victims of crime as well as their ability to access appropriate and specialized services. The interpretation of these sections are questionable on other grounds as well. Offender based probation and alternative measures programs are not subject to the same restrictive interpretations of ss. 33 and 34 of the FOIPPA. These offender based programs, which are also largely community based, are routinely provided with victims personal information in order to oversee probation orders and alternative measures/diversion initiatives. They are not restricted in their access to victim related information which indicates that the consistent use provisions of the FOIPPA are not being consistently interpreted as between victim based programs and offender based programs. A gender analysis of these two program sectors would likely reveal a significant dichotomy in terms of who is provided with the necessary information in order to fulfill their contractual obligations who is being served by these two sectors.

This situation is simply unequitable inequitable. Victim information is being withheld from specialized victim serving agencies; the result is that women and children victims are not being given a meaningful opportunity to access the available services. At the same time, victim information is being released to offender based programs for the purpose of operating probation, alternate measures, diversion and other programs. In the final analysis, women's privacy rights are held to be sacrosanct when the competing consideration is their own safety and well being but are not quite as compelling in relation to the provision of alternative measures for offenders.

#### **d. Violence Against Women And Children is a Human Rights Issue**

Most women's experience of human rights violations are gendered, and many forms of discrimination or abuse occur because the victim is female. Sexual assault and VAWIR offences are good examples of forms of abuse and violence that are based on gender. As such gender based violence is a human rights issue. In this context government is accountable for the implementation of policies—and laws that work against women and for the sensitivity (or lack thereof) of agencies handling these issues.

The inability of SVAPs to fulfill their mandates in a proactive manner also undermines international human rights covenants and declarations. Convention on the Elimination of all Forms of Discrimination Against Women commits signatories including Canada to eliminate all forms of discrimination against women. The explicit purpose of the Convention is to ensure that measures are adopted that will [eliminate] such

discrimination in all its forms and manifestations.. Further, the Declaration on the Elimination of Violence Against Women (see Appendix A) contains clear directions to governments on their responsibilities to ensure the re victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions.

The international community has also expressly recognized the need for specialized assistance to women and children victims of violence and strongly encourage governments to take all appropriate measures to promote their safety and physical and psychological rehabilitation. In addition, the Declaration underlines the importance of enlisting the cooperation of non governmental organizations as integral components of any strategy or plan for the protection of women against violence.

## **e. The Experience Of Other Jurisdictions**

### **(1) Edmonton Safer Cities Initiative**

Other jurisdictions have attempted to document the benefits of including specialized services as part of a law enforcement strategy that actively seeks to support and assist the victim as part of the criminal investigation process. In Edmonton a six month Family Violence Follow Up Team Demonstration Project focused the energies of police, social work and program evaluation professionals on developing an innovative, collaborative approach to intervention with adult victims of violence against women in relationships and the perpetrators. The findings of the Project are informative:

94% of victims with whom the Follow Up Team worked felt they benefitted from the social work contact;

97% of victims with whom the Follow Up Team worked reported having made positive–changes in their lives, compared to 63% in the comparison group.

47% of victims who received Follow Up Team Services left their abusive partners versus 26% of victims in the Comparison Group.

Prior to intervention, victims of family violence were seen to be and described themselves as resigned vulnerable feeling alone and blaming themselves for the situation. They also feared police involvement and felt the system was incapable of resolving the problems.

The emotional turmoil of a family violence situation can render a victim incapable of dealing with a legal system that does not take into account the complexities of family violence issues and experiences.

The legal system in many instances is an obstacle to the victims success in extricating herself and maintaining independence from a violent relationship.

Some family violence victims can deal with the legal system if they have the strength,– knowledge, determination and various external supports to take action on their own behalf.

The essence of police intervention is the taking of action and the controlling of a VAWIR situation; the essence of social work intervention is support and facilitation of constructive change by the principals to the violence.

From the victim s perspective, conventional police interventions did not address the causes of conflict nor did they provide significant supports for change.

## **(2) Interpretation of Consistent in Ontario**

In Ontario there are reports that RCMP and Ontario Provincial Police view disclosure to victim assistance agencies as a consistent use of the information. Section 43 of the Ontario Freedom of Information and Protection of Privacy Act states that the purpose of a use or disclosure of information is a consistent purpose only if the individual might reasonably have expected such a use or disclosure. The Federal Privacy Act contains no definition at all.

## **PRELIMINARY RECOMMENDATIONS AND SUMMARY COMMENTS‘**

The present wording of sections 33 and 34 of the FOIPPA cannot continue to inform public policy with respect to the provision of victim assistance services to women and children victims of sexual assault, child (sexual) abuse and relationship violence without more express guidance. The non disclosure policy has the effect of protecting women and children victims privacy rights while sacrificing their rights to meaningful access to appropriate victim assistance services. It is the position of BCASVACP that this shift in government policy based on FOIPPA has serious negative consequences for victims of sexual assault, child (sexual) abuse and relationship violence as well as the integrity of the criminal justice system.

In order to ensure that victims of sexual assault, child (sexual) abuse and relationship violence are provided with the necessary support and assistance, public policy must foster collaboration and cooperation between criminal justice personnel and community based specialized agencies. Research has shown that an integrated and holistic approach to law enforcement and violence prevention produces tangible benefits for victims and improved outcomes in terms of law enforcement.

A number of proposed solutions are suggested as potential means of making the safety of women and children victims the standard by which policy is developed. In so doing it is necessary: (i) to recognize the integral role of SVAPS and other victim serving agencies in providing an integrated and coordinated approach to law enforcement and violence prevention; and (ii) to maintain SVAPS current independent status so that records under their custody and control do not form part of the public record for the purposes of FOIPPA

Solutions involving FOIPPA which recognize the integral role of SVAPs and prioritize women and children victims safety and well being include: >

(i) Introducing amendments to FOIPPA which would expressly recognize disclosure of victims personal information to SVAPs as a consistent use

(ii) Adopting a broader, gender sensitive, equality promoting interpretation of sections 33 and 34 of FOIPP result in the addition of specialized-victim assistance services and other victim services programs to the consistent use

(iii) Amending the legislation to provide for an express exception for SVAPS to be entitled to disclosure; and

(iv) Determining the feasibility of disclosing victims names and contact information under the public interest exception to access to information;>

Based on the discussion in this paper there are other avenues that should be examined at the same time and in addition to the above recommended FOIPPA related changes. These include:

(i) Amend the contract language governing specialized victim assistance agencies to stipulate confidentiality provisions equivalent to B.C. government employees in SVAP contracts;

(ii) Amend section 5 of the B.C. Victims of Crime Act to provide that criminal justice personnel must provide referrals to the appropriate victim services agency and/or amending to include specialized victim assistance services as criminal justice personnel.

(iii) Develop and implement a policy which allows women and children victims to indicate to police and Crown that they do not consent to the disclosure of their personal information to specialized victim assistance services for the purpose of follow up contact.

We trust that these proposed solutions will be given due consideration and we welcome further opportunity for input. The social reality of women and children's experiences of violence and sexual abuse must be taken into account in the development of legislation and policy that affects them. Anything less is bound to result in adverse effects for women and children victims and will point to a failure on the part of government to respect its obligations to develop policy and interpret legislation in keeping with the spirit of the *Canadian Charter of Rights and Freedoms*.

In the final analysis, victims of violence deserve, and have a right to, more sophisticated and considered policy and legislative responses to the specific issue of disclosure of personal information to specialized victim assistance services. Victims of violence deserve, and have a right to, appropriate and informed victim services delivered in a coordinated manner that is sensitive to their needs and requirements. It is critical to understand that this is not simply and solely a privacy rights issue but moreover other important rights and safety considerations also hang in the balance.