

## ISSUES UPDATE

### **May 2003: Amendments to crown charging policy in violence against women cases**

This update supplements the Community Coordination for Women's Safety Backgrounder, *The Ministry of Attorney General Criminal Justice Branch Review of Their Policies Including Those Governing Violence Against Women in Relationships and the Implications This Has for Victim Safety*, developed in June 2002. There is a previous issues update on this topic, dated September 2002. All documents are available online at [www.endingviolence.org](http://www.endingviolence.org): choose CCWS on the homepage, then choose Documents- Coordination Resources.

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On May 1/03 Attorney General Geoff Plant announced Crown Counsel policy changes-- effectively dismantling our province's 20-year-old pro-charge policy in domestic violence cases. (For details see ministry press release on the Ministry of Attorney General Website at <http://www.gov.bc.ca/>)

350 individuals and groups made submissions in response to the Ministry of Attorney General discussion paper on the proposed changes last October. It is unclear whether any of their concerns are reflected in the now-changed policy wording.

The Federal/Provincial/Territorial (F/P/T) Working Group Reviewing Spouse Assault Policies and Legislation released its final report in mid April.<sup>1</sup> The Report, which is based on extensive research conducted by justice officials across Canada for a two-year period, recommends the retention of the pro-charge policy, which is now being dismantled by BC's Attorney General.

The F/P/T Report concludes that pro-charge policies have significantly contributed to the strengthening of the criminal justice system response to spousal abuse. It cites an increase in reporting and also an increase in the number of charges laid. It also cites a reduction in the incidence of reoffending.

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<sup>1</sup> F/P/T Ministers Responsible for Justice. *Final Report of the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation* (Ottawa: 2003).

The majority of spouse abuse victims express strong support for the pro-charge policy. In a recent study conducted in Abbotsford BC, for example, 86% of victims said they agreed with the province's then pro-charge approach.<sup>2</sup>

The majority of the F/P/T Working Group recommended against pre-charge diversion of offenders (away from the justice system) in spouse abuse cases. Only PEI and BC now allow for pre-charge diversion in spouse abuse cases.

While the BC Attorney General is now proposing that "low risk" offenders in these cases be diverted, funding for men's treatment has been reduced by about 50%. Many communities will simply not have the capacity to implement alternative treatment options. Also, with the closure of courthouses and probation offices in smaller communities, it is doubtful that our criminal justice system has adequate capacity to conduct the necessary risk assessments. How will we determine whether a case is low risk?

The Ministry of Attorney General discussion paper cites cases where the victim may be reluctant to testify as possibly being considered for diversion. Police and service providers report that in fact, victim reluctance may be a key indicator of future risk. For example, the Ghakal case in which a total of 9 people were ultimately killed, (the 1996 Vernon massacre) involved a woman who had the courage to go to police but was too fearful to proceed with charges. She and most of her extended family were killed by her estranged spouse.

The Federal/Provincial/Territorial Justice Ministers point out that pro-charge policies merely underscore the existing standards for a Criminal Justice System response to criminal conduct:

"[The pro-prosecution policies] are, in fact, the applicable standards for all criminal conduct. Their specific application to spousal abuse cases underscores the need to make the critical distinction between the criminal justice system's treatment of spousal abuse as a 'criminal matter' and its historical treatment of spousal abuse as a "private matter."<sup>3</sup>

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<sup>2</sup> Plecas, Daryl, Tim Seggar and Lauren Marsland. *Reticence and Re-Assault Among Victims of Domestic Violence in Abbotsford BC* (Victoria: BC Ministry of Attorney General, 2000)

<sup>3</sup> F/P/T Report *supra*.