

# **Report on Domestic Violence Policies and Their Impact on Aboriginal People**

**Submitted to:** Aboriginal Justice Implementation Commission

**Submitted by:** Dr. E. Jane Ursel, RESOLVE Manitoba

**Date:** February 21, 2001

## TABLE OF CONTENTS

	<b>Page</b>
ACKNOWLEDGMENTS .....	v
<b>PART 1 REVIEW OF THE LITERATURE .....</b>	<b>1</b>
Background to Recent Debates .....	1
Current Status of Manitoba Justice Policy on Domestic Violence .....	3
The Debate .....	5
Methodology .....	7
<b>PART 2 POLICING .....</b>	<b>9</b>
Arrest Policies .....	9
Arrest Practises .....	11
Case Characteristics .....	13
Class Bias and Policing .....	14
Discretion .....	18
Dual Arrest .....	19
Prevention Rather Than Arrest .....	21
Summary .....	22
<b>PART 3 PROSECUTION .....</b>	<b>24</b>
Prosecution Policy .....	24
Constructing a New Paradigm of Justice .....	26
Prosecution Practise .....	28
Plea Bargaining and Testimony Bargaining .....	30
The Problem With Stays of Proceedings .....	31

## TABLE OF CONTENTS (Continued)

<b>PART 4</b>	<b>THE COURT</b> .....	33
	Stays of Proceedings .....	34
	Guilty Pleas .....	35
	Contested Cases .....	36
	Sentencing .....	38
	Victim's Ethnicity .....	41
	Summary .....	44
<b>PART 5</b>	<b>CORRECTIONS</b> .....	46
<b>PART 6</b>	<b>RECOMMENDATIONS</b> .....	49
	Part 1 Research and Evaluation .....	49
	Part 2 Rehabilitative Remands .....	49
	Part 3 Dual Arrests .....	50
	Part 4 Family Violence Treatment and Support Programmes .....	50
	Part 5 Pre Arrest Intervention Strategies .....	50
	Part 6 Domestic Violence and Stalking Prevention, Protection and Compensation Act .....	51
<b>REFERENCES</b>	.....	52
<b>APPENDIX A</b>	<b>Crown Attorney's Policy on Domestic Violence</b> .....	62

## LIST OF TABLES

Table 1	Public Attitudes to Policy Changes in the Criminal Justice System Winnipeg Area Study 1984, 1991, and 1995 .....	5
Table 2	Characteristics of Spouse Abuse Cases Resulting in Arrest by Ethnicity of Accused Winnipeg 1992 - 1997 .....	14
Table 3	Domestic Calls for Service by District Winnipeg Police Service, 2000 .....	15
Table 4	Person Who Called the Police in Domestic Assault Cases By Ethnicity of Accused Winnipeg 1992 - 1997 .....	16
Table 5	Weapon Use and Prior Record Rate for Spouse Abuse Cases by Ethnicity of Accused .....	17
Table 6	Incidence of Dual Arrests In Spouse Abuse Cases Winnipeg Family Violence Court 1992 - 1997 .....	20
Table 7	Stay of Proceedings by Ethnicity of Accused .....	34
Table 8	Stay of Proceedings by Ethnicity in Spouse Abuse Cases Controlling for Weapon Use, Prior Record and Crime Severity .....	35
Table 9	Guilty Plea by Ethnicity in Spouse Abuse Cases Controlling for Weapon Use, Prior Record and Crime Severity .....	36
Table 10	Trial Outcomes in Spouse Abuse Cases by Ethnicity .....	37
Table 11	Spouse Abuse Cases That Proceed to Sentencing By Ethnicity .....	37
Table 12	Sentences of Spouse Abuse Offenders By Ethnicity .....	38
Table 13	Conditional Discharge Sentences of Convicted Spouse Abuse Offenders Controlling for Weapon Use, Prior Record and Severity of Offence .....	39
Table 14	Incarceration of Convicted Spouse Abuse Offenders By Ethnicity, Controlling for Weapon Use, Prior Record and Severity of Offence .....	40
Table 15	Incarceration Rates by Victim and Offender Ethnicity .....	42
Table 16	Incarceration Rates by Victim and Offender Ethnicity Controlling for Prior Crimes Against Persons .....	42
Table 17	Incarceration Rates by Victim and Offender Ethnicity Controlling for Most Serious Offence .....	43
Table 18	Duration of Incarceration by Ethnicity of Accused .....	43
Table 19	Court Mandated Treatment by Offenders Ethnicity .....	44
Table 20	Recidivism Rates of STIP Graduates vs Control Group Offenders by Site of Programme and Sentence .....	47

## LIST OF FIGURES

Figure 1	Increase in Reporting Incidents to Police .....	10
Figure 2	Decrease in Self-Reported To Police Assaults .....	10
Figure 3	Spousal Homicide Rates in Canada 1979 - 1998 .....	11
Figure 4	Number of Spousal Assault Cases Where Charges Were Laid - Winnipeg Before and After Family Violence Court .....	12
Figure 5	Spousal Assault Arrest Rates per 100,000 In Selected North American Cities 1995 .....	13
Figure 6	Spousal Abuse Cases Winnipeg Family Violence Court 1992 - 1997 .....	29
Figure 7	Impact of FVC on Winnipeg Probation Active Case Load of Family Violence Offenders .....	46

## ACKNOWLEDGMENTS

In the preparation of this report I had the assistance of a number of very insightful people whose help I would like to acknowledge. While the opinions expressed in this report are my own, I would like to thank the following people who made time to consult with me on these critical issues:

The Honourable Justice Murray Sinclair, Court of Queens Bench

The Honourable Justice Alvin Hamilton, Court of Queens Bench (retired)

Sharon Perrault, Co-ordinator of the Family Violence Program, Ma Mawi Wi Chi Itata

Jocelyn Greenwood, Director, Ikwe-Widdjiitiwin

Janice LeMaistre, Director Family Violence Unit, Manitoba Prosecutions

Marlene Bertrand, Director Family Violence Prevention Branch, Manitoba Department of Family Services and Housing

In the preparation of the data analysis I had the immeasurable assistance of Kelly Gorkoff, Research Associate and Salena Brickey Research Assistant, RESOLVE. In the review of the literature I had the assistance of Kim Spiers, Research Assistant, RESOLVE and in the preparation of the final document I had the tireless assistance of our office manager Dianne Bulback, RESOLVE.

## **PART 1**

### **REVIEW OF THE LITERATURE**

The issue of family violence is the most complex terrain upon which to determine what constitutes justice. Historically, we are at the juncture of powerful countervailing forces . . . victims and women's groups commending the criminalization of family violence and Aboriginal organizations and advocates championing the cause of alternative justice and decriminalization. Aboriginal women and their advocates often find themselves caught between these countervailing views. While both sides agree that abuse must end . . . they clearly do not agree on the means by which this might be achieved.

#### **Background to Recent Debates**

In the late 1970s and early 1980s women's groups in North America began to lobby for better services for victims of family violence, directing their lobbying efforts to departments of social and family services. These groups experienced varying degrees of success depending on the province or state in which they occurred. Despite this variation the decade of the 1980's saw an expansion of shelters, second stage facilities and non residential counseling services for wife abuse victims throughout North America. Manitoba has been one of the most responsive jurisdictions to these demands and, to date, has one of the highest per capita expenditures on family violence programmes.

Concurrent with the expansion of programmes within family services departments there was a growing victims' movement which focused primarily on the justice system. Organizations like Mothers Against Drunk Drivers (MADD) began to lobby for stricter penalties for offenders, better prevention programmes and a justice system that was more responsive to the needs of victims. Within this larger victims movement, advocates for abused women began to turn their attention to the justice system. They were critical of the historic indifference of the justice system to crimes of violence within the family. They challenged the "double standard" within a society in which . . . if you hit a stranger it was a crime, if you hit a family member it was a 'personal' problem. Women's advocates called for an end to this double standard, they called for the criminalization of domestic violence which had both symbolic and instrumental justification (Fagan 1996). "Criminal processing of people who assault family members reaffirms social disapproval of violence, and it also, at least in theory, subjects violent people to interventions that might deter, incapacitate or rehabilitate them" (Worden, 217, 2000).

While victims and women's movements were advocating criminalization of domestic violence offenders there was an equally committed counter movement calling for decriminalization of actions and individuals deemed over represented in the criminal justice system (CJS). One of the strongest voices for decriminalization were advocates for alternative justice for Aboriginal people. These advocates, including the authors of the Aboriginal Justice Inquiry Report, identified the massive over representation of Aboriginal people in the criminal justice system and argued that arrests and imprisonment were foreign to aboriginal concepts of justice and redress and therefore were not effective in rehabilitation (Hamilton and Sinclair 1991; York 1990; Nuffield 1998; LaPrairie 1996).

In 1996 amendments to the Canadian Criminal Code responded to these concerns with the statement in section 718.2(e) on sentencing principles "all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders." In 1999 the Supreme Court of Canada released a judgement on section 718.2(e) in the case of R. v. Gladue. This is of particular interest because it involved a domestic homicide. The Supreme Court ruling indicated that section 718.2(e) requires a new framework of analysis which sentencing judges must consider, with two focus points:

- The unique systemic or background factors which may have played a part in bringing the particular Aboriginal offender before the courts; and
  - The types of sentencing procedures and sanctions which may be appropriate in circumstances for the offender because of his or her particular Aboriginal heritage or connection.
- (April 23,1999) Doc.26300,23C.R. (5th)197,133 C.C.C.(3d) 385 (S.C.C.)

In a case comment Campbell (1999) states that ". . . the court is explicit about three underlying points. First, no one part of the system can fix the problem on its own, The Court is in no way suggesting that sentencing judges are the whole problem or the whole solution . . . Second, the Court notes that there is no intention to create a separate justice system for Aboriginal people. The court notes that the more serious or violent the crime, the less likely it may be that the sentence will differ as between an Aboriginal and a non-Aboriginal offender. Third, the Court emphasizes that a restorative justice approach is not necessarily a more lenient approach, and the most sever punishment is not necessarily incarceration" (Campbell 1999:240).

The criminal code amendment on sentencing (1996) and the Supreme Court decision (R. v. Gladue 1999) affirm the special consideration owed to Aboriginal people by virtue of their historic disenfranchisement. However, it is notable that in cases of serious and violent crimes the Supreme Court anticipates that the special considerations of Aboriginal background may be outweighed by the need for protection and security. This is the "fault line" that frequently divides the Aboriginal community by gender. Aboriginal women victims and their advocates express strong concern about tendencies to decriminalize domestic assaults for Aboriginal people (McGillivray 1997; McIvor and Nahanee 1998; LaRocque 1995). LaRocque articulates the concern that failure to intervene in crimes of Aboriginal people against Aboriginal people abandons victims who are "set up to live



lives of silent pain, fear and continual victimization” “Those involved in gross and wilful crimes should receive very lengthy jail sentences and, in specific cases, should also be permanently removed from their communities. In cases of brutalization, rape and ruthless murder, removal may be the only effective measure of protection for victims and their families, especially in small and/or remote settlements” (LaRocque 1995:116-117).

Canadian studies have consistently reported high rates of victimization among Aboriginal women and children (Ontario Native Women’s Association 1989; Canadian Panel on Violence Against Women 1994; Comack 1998; Proulx and Perrault 2000). Statistics Canada report that Aboriginal women are victimized at three times the rate of non-Aboriginal women and twice the rate of Aboriginal men (Statistics Canada 1999 General Social Survey on Victimization). Many of these studies link the specific prevalence and nature of family violence in Aboriginal communities to their experience of colonization, the legacy of residential schools and the consequent pattern of inter-generational abuse. In short, from an historic stand point it is difficult to separate the victims and the abusers because of the profound history of abuse of Aboriginal people. From the stand point of Aboriginal offenders (who may well have been abused as children) the question arises; do they merit a different consequence because of their history? From the stand point of Aboriginal victims the weight of history and the urgency of immediate risk seem to pull in different directions. Do Aboriginal victims merit greater police intervention because of their greater risk, or less police intervention because of their assailants history of abuse? How is protection best provided? Much of the debate seems to revolve around the question of whether we privilege past or present victims?

Is the position of women’s advocates irreconcilable with the position of Aboriginal advocates? The debate that follows presents two visions of resolution: The first, is an argument on the failure of the justice system to intervene effectively in family violence matters and aboriginal matters and a recommendation to abandon criminalization of family violence. The second position agrees that the traditional paradigm of justice has fallen short of the mark for domestic violence victims and Aboriginal people. However, rather than abandoning criminal justice system (CJS), this position advocates for a new paradigm of justice. This second position holds out the modest hope that a new paradigm of justice is beginning to emerge from the experiences of the Winnipeg Family Violence Court and that this paradigm does not force us into the unpalatable choice of privileging past over present victims.

### **Current Status of Manitoba Justice Policy on Domestic Violence**

The call for criminalization of family violence in North America led to a series of policy changes from policing, to courts, to corrections. As in the Social Service field the pattern of change within the criminal justice system varied from province to province and state to state. Manitoba, again, stands out as one of the most responsive and innovative jurisdictions in North America. The chronology of change within the Winnipeg CJS over the past two decades is as follows:

**Policy Changes in the Criminal Justice System  
1983 - 2001**

- 1983 - The Attorney General of Manitoba issued a directive to charge to the police forces in Manitoba stating that when there are reasonable and probable grounds to indicate that a crime has occurred the police must charge regardless of the relationship between the victim and the accused.
- 1986 - The creation of the Women's Advocacy Programme to assist women whose partners have been charged, to assess the victims risk, to develop safety plans, and prepare the women for court when necessary.
- 1990 - Development of the specialized criminal court for family violence cases, referred to as Family Violence Court (FVC) which provides specialized prosecutors and designated courts for intake, screening, preliminary hearings and trials.
- 1992 - Specialized Correctional programme within Community Probations which provided specialized counselors to run batterers treatment groups for court mandated offenders.
- 1993 - Winnipeg Police Service introduce their domestic violence policy referred to by the press as "Zero Tolerance."
- 1997 - Expansion of the specialized prosecutors Family Violence Unit so crown attorneys can follow cases from bail hearings to Provincial Court to Court of Queens Bench and Court of Appeal.
- 2000 - Winnipeg Police Service create the position of Domestic Violence Coordinator
  - Manitoba Corrections introduces a special unit at Headingley prison for domestic violence offenders.
- 2001 - Winnipeg Police Service introduces a new pilot project focused on early intervention in domestic violence cases.

In the context of these dramatic historical changes in the CJS response to domestic violence cases a lively debate has emerged on the merits of pro-arrest policies throughout North America. While academics have increasingly divided on the issue of arrest, it is important to note that service providers working in the field of domestic violence and the general public (when surveyed) continue to support pro-arrest policies (Johnson and Sigler 1995; Ursel and Brickey 1995). In Winnipeg random sample surveys were conducted in 1984 (after the 1983 directive) in 1991 (after the development of FVC) and in 1995 (after zero tolerance) to assess public attitudes to these policy changes. These surveys indicated very high levels of support for Criminal Justice System interventions in family violence cases.

**Table 1**  
**Public Attitudes to Policy Changes in the Criminal Justice System**  
**Winnipeg Area Study 1984, 1991, and 1995**

	<b>Total Sample Agree</b>	<b>Women Agree</b>	<b>Men Agree</b>
1983 Directive To Charge	85%	87%	85%
Family Violence Court	89%	91%	87%
Zero Tolerance Policy	80%	87%	71%

The Winnipeg Area Study is an annual sample survey of approximately 750 to 1,100 households randomly selected from a computerized list of addresses compiled by the City Planning Department. A sample size of 530 or more for a population 220,000 households or 600,000 individuals provides an error level of 4.1 per cent, 19 times out of 20.

### **The Debate**

Initially the academic literature was cautiously optimistic about the merits of pro-arrest policies. Some argued that policies that mandated or presumed arrest would clarify the police role, correcting decades of indifference (Buel 1988) Women’s advocates argued that strong arrest policies would empower victims, some of whom were so fearful of their partners they could not insist on arrest (Stark 1993) “But most proponents of arrest policies adopted the theoretical perspective of the Minneapolis researchers: Arrest, as a form of legal sanction and control, would deter future violence more effectively than milder forms of police intervention” (Worden, 234, 2000).

The Minneapolis Domestic Violence Experiment and numerous replication studies were controlled experiments in which domestic violence misdemeanor cases were randomly assigned to one of three possible responses: 1) “advice” including, in some cases, informal mediation; 2) an order to the suspect to leave for eight hours; 3) an arrest (Sherman and Berk 1984a, 1984b; and Sherman and Cohn 1989; Meeker and Binder 1990; Binder and Meeker 1992). The behaviour of the suspect was then tracked for six months after the police intervention, with both official data and victim reports. The authors of the initial Minneapolis experiment found that arrested suspects manifested significantly less subsequent violence than those who were ordered to leave and were “advised.” Concurrent with the Minneapolis study a Canadian study by Peter Jaffe (1991) came to similar conclusions utilizing different methodologies. Jaffe surveyed wife assault victims and police officers in London, Ontario concerning the effects of a mandatory charging policy. The study indicated that after the implementation of the policy, the number of occurrences of wife assault dropped sharply.

This emergent consensus on the value of pro-arrest policies began to disintegrate when the numerous studies replicating the Minneapolis experiment came up with conflicting results. Some replication studies indicated that arrest was a short term deterrent but could exacerbate violence in the long term. Other replication studies indicated that arrest had a deterrent effect for highly integrated individuals, i.e. those who were married and employed but no effect on poorly integrated individuals or individuals with prior records for violence (Schmidt, Janell D. and Lawrence Sherman 1993). Further, other studies began to document unintended effects of pro arrest policies, in particular the problem of “dual arrests,” arrests of both parties on cross-complaints of misdemeanor-level behaviour (Martin 1997; Comack 2000).

These observations led Lawrence Sherman, one of the original researchers in the Minneapolis experiment, to conclude that mandatory arrest laws should be repealed and replaced with “structured police discretion” and specialized units to target chronic offenders (Schmidt and Sherman 1993) It is this position that is articulated by Comack et al in the December 2000 publication of the Canadian Centre for Policy Alternative entitled “Mean Streets.”

Comack’s study reviewed police files on the characteristics of domestic and non domestic crimes against persons. While her study is not specifically about the Zero Tolerance Policy, some of her findings result in some critical observations about the policy. Specifically Comack maintains that the Zero Tolerance Policy has opened the way for “double charging” to occur, has created a backlog of court cases and has resulted in a high rate of stays of proceedings and consequently a low rate of conviction. Comack’s suggested solutions mirrors Sherman’s recommendations to increase police discretion and to create special police units (Winnipeg Free Press, Wednesday, December 6).

While Lawrence Sherman’s “about face” on pro arrest policies have fueled a school of thought critical of criminal justice intervention in domestic violence cases an equal number of academic researchers continue to argue in favour of pro arrest policies as one of a series of many interventions required to break the cycle of abuse (Owen-Manley 1999; Zorza 1998; Harrell and Smith 1998). The debate over pro-arrest policies sparked by Sherman has developed into a questioning of the appropriateness of criminal justice intervention in domestic violence cases. The criticisms as revealed in Comack’s work are broader than just questioning police arrest policy. The key issues for critics of CJS intervention are:

1. Studies of pro-arrest policies cannot demonstrate conclusively that arrest deters future violence
2. Pro arrest policies are seen to ‘cause’ dual arrest behaviour
3. Pro arrest policies result in clogging the courts
4. High arrest rates result in high stay rates and therefore low conviction rates

An examination of each of these four concerns raise a number of issues about strengths and limitations of the CJS in responding to domestic violence issues. It is this author’s position shared by a number of other researchers (Harrell and Smith 1998; Jaffe 1991; Owens and Manley 1999; Worden 2000) that much of the disenchantment with the CJS and its ability to respond to domestic violence cases results from unrealistic measures of

success, applying an old concept of justice to a new social issue which does not fit well within the traditional paradigm.

The traditional paradigm of criminal justice processing is an imperfect and problematic vehicle for processing domestic violence cases, for a number of reasons. First, “the legal process is organized around discrete incidents, and official investment in incidents is shaped by their legal seriousness and probabilities of conviction. . . but domestic violence typically involves multiple incidents, sometimes of escalating seriousness, with little physical evidence and few witnesses” (Worden, p. 233:2000). Second, because of the adversarial nature of criminal justice process it is assumed that “both sides” are committed to winning “their case,” i.e. that the victim has the same interest as the crown attorney. . . public conviction and punishment. However, victims of domestic violence have diverse motivations for seeking CJS intervention (Ford 1991; Ford and Regoli 1993; Ursel 1998). As well many victims face collateral legal issues, such as divorce proceedings, custody and child support issues. In short domestic violence cases involve a process rather than a discreet incident and they are complex and messy rather than a simple evidentiary issue.

It is this “disconnect” between the characteristics of the old paradigm of justice and the realities of domestic violence cases that lead some researchers to the conclusion that the criminal justice system is not an appropriate tool for intervention in domestic violence matters. The measures of success that “fit” the old paradigm do not “fit” domestic violence cases. If arrests don’t deter future violence then should we arrest? If prosecution does not result in conviction then should we prosecute? Discarding the CJS as a tool for intervention in these cases is one possible reaction to the “disconnect” between the old paradigm and the realities of family violence. The other reaction is to challenge the old paradigm and posit a new paradigm which will better fit the complex nature of family violence.

One side of the debate concludes that the criminalization of family violence does more harm than good; the other side suggests that there are components of the CJS that are essential to the safety of family members at risk and there are other components of the CJS that are amenable to change, to better fit the complexity of family violence cases. We will examine the merits of these arguments in the usual sequence of criminal justice interventions, considering the debate on policing first, then prosecutions, followed by the courts and finally corrections. To inform our discussion we combine a review of the research literature on criminal justice interventions in domestic violence cases in the North American context with data from research specific to the Winnipeg experience of zero tolerance and the Winnipeg Family Violence Court (FVC).

## **Methodology**

The Winnipeg FVC data presented below cover a five year period 1992/93 to 1997/98. The data are collected from all incoming domestic violence matters in which an arrest was made. We are dealing with a complete population of family violence cases rather than a sample. The only missing cases are those in which the accused died before disposition or is out on warrant and the case is not disposed. Cases are considered family violence matters if the victim is in a relationship with the accused which involves “trust,

dependency and /or kinship.” Thus, the FVC hears matters of child abuse, spouse abuse, elder abuse and other family assaults. The category ‘other family assaults’ involve abuse among adult siblings, nieces, nephews, uncles and aunts, etc.

While the court adjudicates four types of interpersonal abuse, it is spouse abuse that is most directly affected by the Zero Tolerance Policy and it is spouse abuse cases that constitute 85% of matters before the court. Therefore, our analysis will focus on the 14,207 spouse abuse matters heard over the five years under review. Our unit of analysis is the individual, not the charge, and the 14,207 arrested individuals include 5,319 accused of Aboriginal origin and 8,888 accused who are non-Aboriginal.

Our identification of an accused or victim’s ethnic status results from a composite of information provided in the police and crown files. An individual is considered Aboriginal if they have self disclosed or if their ethnic status is identified in police or crown files. We include in the category “Aboriginal origin” persons identified as status and non-status Aboriginal as well as Metis. This is a broad category and the determination of entry into this category is dependent upon self or police or crown identification. Therefore, it is not a precise category. However, given the choice of this determination of ethnicity or no determination at all we felt it was best to proceed with the available information. Our categories for ethnicity include European origin, Aboriginal origin and Other. The “other” category includes other visible minorities and for the purposes of this report are included in the broad category non-Aboriginal. Finally, because this is an accused based data set, our most detailed information is on the accused. While we often have information on the ethnicity of the victim, it is not recorded as frequently as the accused’s ethnic status.

To conclude, it is important to note there is a significant limitation in our data. The 1996 criminal code amendment on sentencing introduced the concept of conditional sentences and directed the judiciary to consider all reasonable alternatives to incarceration, “with particular attention to the circumstances of Aboriginal offenders.” Our data set 1992/93 to 1997/98 ends within a year and a half of the amendment and therefore does not have a sufficient number of cases to determine whether conditional sentences are applied to domestic violence cases and whether they apply particularly to cases involving an Aboriginal offender.

## PART 2

### POLICING

#### **Arrest Policies**

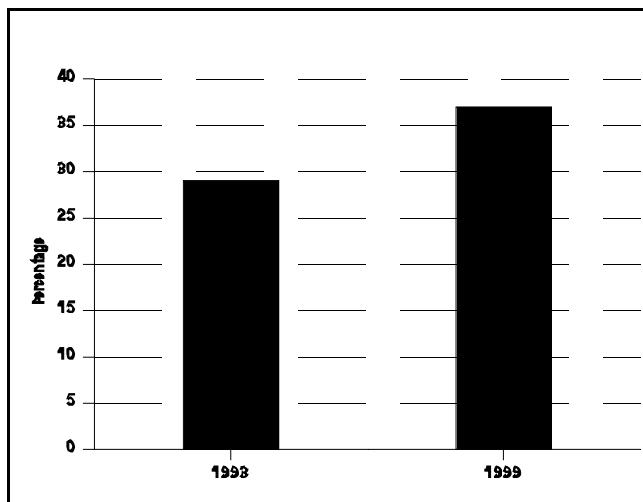
The rise and fall of pro-arrest arguments in North America has been tied to a single measure of success, congruent with the traditional paradigm of justice; did the arrest prevent future violence (Worden, 2000). This one dimensional measure of success is inadequate to the complex nature of the crime of family violence and the diverse motivations of the victim who calls the police (Ursel 1998; Sullivan, Basta et.al 1992). Some researchers and most advocates maintain that the most important reason for police response and a pro arrest policy is safety (Jaffe 1991; Harrell and Smith 1998). This measure of success is both congruent with the police officers' professional mandate to keep the peace and the victims' motivations at the time of the actual or anticipated assault, to prevent the particular attack or to prevent its escalation. Winnipeg studies have indicated that 80% of the domestic calls to the police are made by the victim herself, and her primary motivation is safety for herself and her children (Ursel 2000).

Police are typically called during an on going or anticipated assault and the current Zero Tolerance Policy requires that the police arrest and remove the alleged offender. This provides an effective short term deterrence to escalating violence. Understanding that domestic violence is by its nature a reoccurring crime with a marked tendency to escalation the issue of safety should be paramount. Vulnerable family members use rapid police response to correct a power imbalance between themselves and their assaultive partner. The same person who called the police for protection may choose not to 'use' the rest of the criminal justice system, i.e. testify as a witness in court. Yet some researchers cite the failure to get a conviction as an indicator of the failure of police policy (Comack 2000). Why should such an intervention be considered "unsuccessful" and "inappropriate" if it did prevent an escalation of violence?

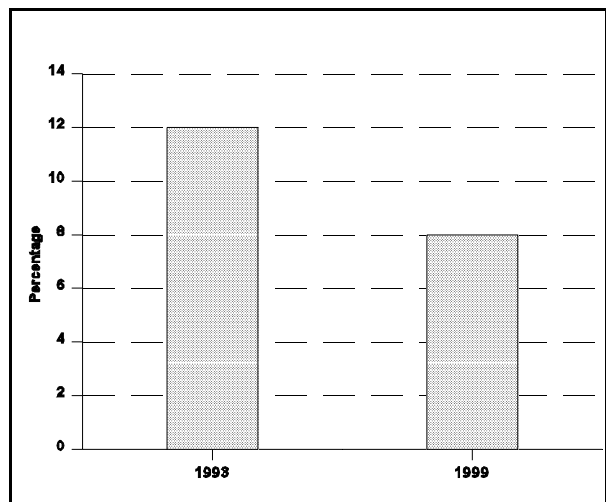
If we applied the same measure of success to evaluate our shelters and crisis services that we apply to police services . . . their interventions must be shown to deter future violence . . . then we would have to conclude that shelters have failed. Numerous studies document that over 60% of the women in shelter will return to their abusive partner and will sustain subsequent abuse (McLeod 1983). We do not use the 'deterrence' measure of success to evaluate our social services because we understand the cyclic and recurring nature of family violence. We know that women's struggles to deal with abusive partners are seldom resolved by a single stay in a shelter or a single call to the police. However, some critics still use this one dimensional measure to evaluate police interventions.

While it is recognized by service providers as unreasonable to expect a single intervention, in a single case, at a single point in time to ‘solve’ such complex problems, there is an underlying assumption that greater accessibility to support/intervention programmes will over time reduce victims’ vulnerability. If we used this more modest ‘incrementalist’ criteria as a more realistic measure of ‘success’ in policing, then a recent publication of the Canadian Centre for Justice Statistics provides some interesting data. Comparing the 1999 General Social Survey on Victimization(GSS) with the 1993 Violence Against Women Survey (VAWS) they found a 33% decrease in women who self-reported having been abused, as well as a decrease in both injury rates and injuries requiring medical attention. However, among the women who reported having been abused there was a 28% increase in reporting the incident to police.

**Figure 1  
Increase in Reporting Incidents  
To Police**



**Figure 2  
Decrease in Self-Reported  
Assaults**



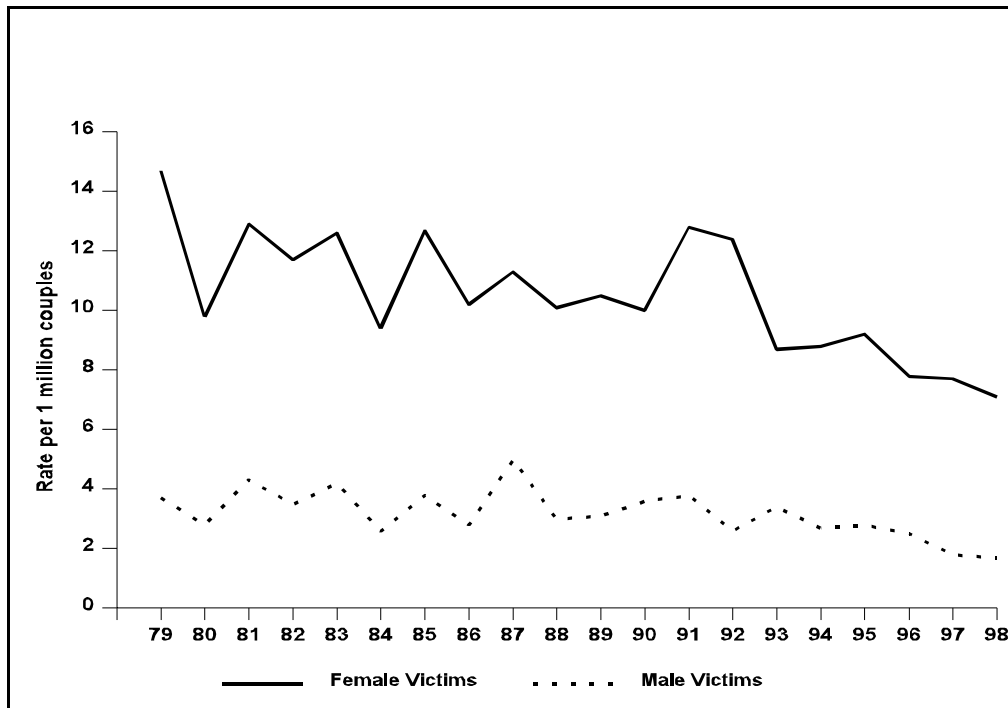
Note: Adapted from Statistics Canada, Family Violence in Canada, Catalogue No. 85-224,2000 p. 19-20.

These results hold up the hope that early police interventions may reduce escalation and prevent more serious assaults. While it is wise not to draw too many conclusions from such early results, it is instructive to note that the period of expanding pro-arrest policies in Canada does coincide with the period of declining spousal homicides.



**Figure 3**

**Spousal Homicide Rates in Canada 1979 - 1998**



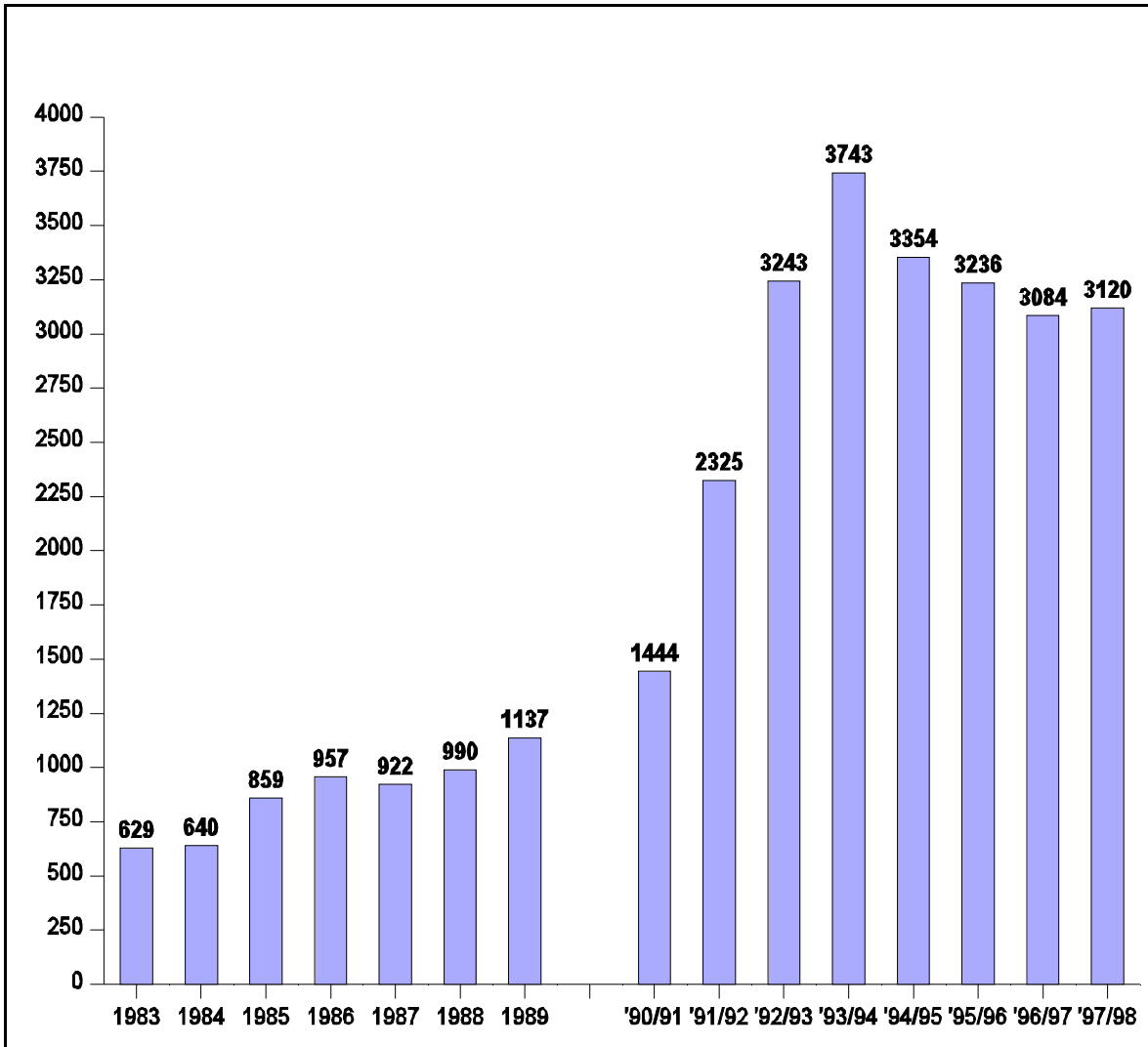
Note: Adapted from Statistics Canada, Family Violence in Canada, Catalogue No. 85-224, 2000 p. 40

**Arrest Practises**

Throughout the period of policy change, from the directive to charge in 1983 to the introduction of zero tolerance in 1993, arrest rates for spousal assaults have risen dramatically. As the chart below indicates a third factor that had an impact on arrest rates was the introduction of the family violence court. These three factors combine to increase the arrest for spouse abuse from 629 in 1983 to a peak of 3,743 in 1993/94.

**Figure 4**

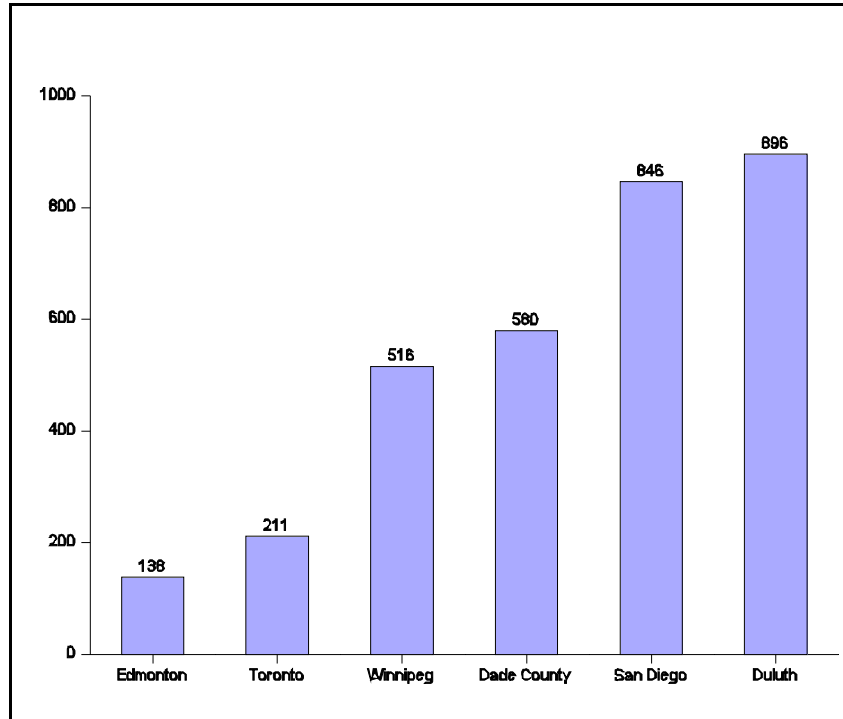
**Number of Spousal Assault Cases Where Charges Were Laid -  
Winnipeg Before and After Family Violence Court**



Numerous cities in the United States have mandatory charging policies similar to the Winnipeg Zero Tolerance Policy. A comparison of arrest rates in different cities in North America indicate that while Winnipeg had the highest arrest rate in Canada two years after the introduction of zero tolerance, it was in the medium range compared to other American cities.

**Figure 5**

**Spousal Assault Arrest Rates per 100,000  
In Selected North American Cities 1995**



**Case Characteristics**

When we examine the characteristics of the persons arrested, we find that the majority of the offenders are men (85%) and the majority of the victims are women (85%). Of the 14,207 individuals arrested for spouse abuse in the five year period 1992 to 1997, 5,319 or 37% were Aboriginal and 8,888 or (63%) were non-Aboriginal. Current population estimates indicate that people of Aboriginal origin constitute approximately 12 to 13% of Winnipeg's population while they make up 37% of the arrests for domestic violence. Aboriginal people are over represented by a factor of three in the family violence court which is consistent with the Statistics Canada victimization survey which indicated that Aboriginal women were 3 times more likely to suffer from spousal assault than non-Aboriginal women and twice as likely to be victimized from all forms of assault than Aboriginal men, (Statistics Canada 1999 General Social Survey on Victimization). Table 2 gives a brief comparative description of case characteristics by ethnicity.

**Table 2**  
**Characteristics of Spouse Abuse Cases Resulting in Arrest**  
**by Ethnicity of Accused Winnipeg 1992 - 1997**

	Aboriginal		Non-Aboriginal	
	Number	Percentage	Number	Percentage
<b>Sex of Accused</b>				
Male	4,412	83%	7,645	86%
Female	900	17%	1,236	14%
<b>Sex of Victim</b>				
Male	851	16%	1,205	14%
Female	4,341	82%	7,445	84%
Male & Female	127	2%	238	3%
<b>Employment Status</b>				
Employed	954	20%	4,189	53%
Unemployed	535	11%	1,041	13%
Social Assistance	3,086	66%	2,311	30%
Other*	105	3%	311	4%
<b>Median Age of Accused</b>	30 years		31 years	

\*The other category includes - student, homemaker and retired

Table 2 indicates that in many regards the characteristics of aboriginal and non-Aboriginal cases are similar. The overwhelming majority of accused are men and the overwhelming majority of the victims are women. The age at arrest is also very similar. The one outstanding difference is the socioeconomic status of the two groups. The majority of Aboriginal accused (66%) were on social assistance and the majority of the non-Aboriginal accused (53%) were employed. These statistics reflect the tremendously disadvantaged economic status of Aboriginal people in Canada today. It also reflects the reality, observed in most criminal justice studies that the majority of people who come to the attention of the law are people of low socioeconomic status. This is true of the non-Aboriginal accused as well who exhibit a much lower employment rate and a much higher rate of dependence on social assistance than the adult male population of Winnipeg. This raises the concern about class bias in the criminal justice system and the extent to which zero-tolerance reflects or contributes to this bias.

### **Class Bias and Policing**

A school of thought that is critical of criminal justice intervention and particularly pro arrest policies is articulated by a Canadian sociologist, Noreen Snider, who is concerned about the over criminalization of low income people. "Lower income, visible minority, and Aboriginal women have paid a heavy price for mandatory criminalization. It is

primarily their communities . . . that are targeted for enhanced surveillance” (Snider 1998:146). A Canadian historian Carol Strange (1995:301) states: ‘Historical evidence of battered wives’ strategies confirms that women avoid the criminal courts whenever alternatives are available’. For most, this observation is simple to understand. If we were being abused and had some way of stopping that abuse and preventing its reoccurrence without calling the police, that would probably be our first choice, especially if we could keep the matter from public, and often unsympathetic, scrutiny. If we could afford a lawyer, if we had a wealthy relative who could help us move, divorce or start over, then such an alternative would seem so much easier and self-directed than calling the police, going to court, and telling our stories to strangers.

Yet every year in Winnipeg, a city of 670,000 people, thousands of women call the police requesting protection from abusive spouses. A further 1,000 seek protection through applying for a protection order through the new Domestic Violence and Stalking Prevention, Protection and Compensation Act. Even with the recent option of a specific civil remedy the calls to the Winnipeg police have increased in the past year. The Winnipeg police recorded over 14,000 calls of a domestic nature in 2000.

**Table 3**  
**Domestic Calls for Service by District\***  
**Winnipeg Police Service, 2000**

<b>District</b>	<b>Number</b>	<b>Percentage</b>
District 1	4,665	33%
District 2	1,175	8%
District 3	3,897	27%
District 4	1,781	12%
District 5	1,270	9%
District 6	1,511	11%
<b>Total</b>	<b>14,299</b>	

\*Data courtesy of the Domestic Violence Co-ordinator, Winnipeg Police Service

The Winnipeg police data reveal a number of important matters. Despite the fact that calling the police is usually a woman’s last choice more and more women in Winnipeg are calling the police. Further, the majority of these calls are in district one and district three, core area communities which have a high ratio of low income individuals and a high ratio of Aboriginal households. We know from the FVC data that the majority of these calls are made by the victim herself.

**Table 4****Person Who Called the Police in Domestic Assault Cases By Ethnicity of Accused  
Winnipeg 1992 - 1997\***

	All Cases		Aboriginal		Non-Aboriginal	
	Number	Percentage	Number	Percentage	Number	Percentage
Victim	11,133	82%	3,836	81%	6,724	83%
Accused**	757	6%	213	5%	486	6%
Child	275	2%	115	2%	146	2%
Other Family	260	2%	123	3%	132	2%
3 <sup>rd</sup> Party	1,149	9%	480	10%	612	8%

\* Percentages may be greater than 100 due to rounding.

\*\* Cases in which the accused called the police typically involve cases of dual arrests.

Given that, in most cases, the police are not women's first choice for help, why are so many women calling the police? Two factors appear to explain this. First, thousands of women at risk have no access to alternatives; they cannot afford lawyers or personal body guards. Nor do they have wealthy relatives who can finance 'a great escape'. Most women who use police services to stop violence are low-income women, although not only poor women call the police. The second factor explaining calls to the police is imminent danger. The Canadian Violence Against Women survey found that "(a) battered woman's decision to involve police is related to the severity of the violence and whether children were involved . . . A woman is 3 times as likely to call the police if she had children who witnessed the violence, four times as likely if she was injured, and five times as likely if she fears her life is in danger' (Johnson 1995: 142,144).

McGillivray and Comaskey report similar findings in their interviews with Aboriginal women in Winnipeg. "The most frequent reason for calling police was fear for her safety and that of her children . . . 'I was really afraid that he would get really out of hand, worse than the last time.' 'The reasons I contacted the police was because he was abusing me, he was hitting me, accusing me. And he was scaring the girls.' 'I wanted him to pay for hurting me' 'I wanted him out of my home'" (McGillivray & Comaskey 1998:95).

The debate and controversy over appropriate police intervention in low income communities is a long standing debate. From the stand point of low income or Aboriginal accused there is the expressed concern that they are more likely to 'suffer' police intervention for behaviour that would not result in police intervention in a middle class community (Snider 1998; Goldstein 1977:104). This concern is supported by data from our criminal courts, including the Winnipeg FVC which consistently show that low income and Aboriginal people are over represented in the criminal justice system.

However, from the stand point of low income or Aboriginal victims there is the expressed concern that they are more likely to ‘suffer’ victimization and typically their only source of help is the police (McGillivray & Comaskey 1998; LaRocque 1993). Thus, the over representation of low income or Aboriginal people in our FVC is a reflection of the limited resources available to actual or potential victims. Given that police are often their only resource for protection to limit or remove that support would result in putting many more women’s lives at risk particularly low income or Aboriginal women.

In assessing how great that risk would be, information on the nature of the crime and the prior record rate of the accused is helpful in gaging how potentially dangerous an accused could be. Table 5 provides information on two important risk indicators by ethnicity of the accused, 1) whether they used or threatened use of a weapon and, 2) whether they had a prior record for violence.

**Table 5**  
**Weapon Use and Prior Record Rate for Spouse Abuse**  
**Cases by Ethnicity of Accused**

Ethnicity	Weapon Use		Prior Record	Crime Against Persons	Domestic
	Number	Percentage	Percentage	Percentage	Percentage
Aboriginal	1,138	22%	91%	72%	50%
Non-Aboriginal	1,525	17%	75%	50%	32%

Note: A single code is used in our data collection for threat and use of a weapon. The guiding principle in coding this variable is that the weapon must be visible during the assault for it to be included in the weapon code.

Given that weapon use and prior history of violence are key risk indicators the above table suggests that a significant percentage of the persons arrested had a high potential to be dangerous and that Aboriginal accused were significantly higher in the risk indicators than non-Aboriginal accused. These findings suggest that Winnipeg women had substantial reason to fear for their safety and their call to the police was a call for protection.

The only way to reduce the over representation of Aboriginal people at the entry level is to respond to Aboriginal women’s calls for help differently than non-Aboriginal women. Studies cited earlier indicate that Aboriginal women do not want to be treated differently than non-Aboriginal women, particularly when they are at risk. To try to reduce the over-representation of Aboriginal people in FVC by reducing the number of arrests would have the effect of reducing protection to Aboriginal women and children. In short, we would be ignoring current victims in an attempt to counteract historic injustices. While it is important to address these historic injustices to Aboriginal peoples, to do so at

the policing level in domestic violence cases, would have the effect of creating or perpetuating a whole new generation of victims.

## **Discretion**

Integral to the issue of police response is the issue of police discretion. Critics of the CJS (Schmidt and Sherman 1993; Comack 2000) argue that police should be provided with greater discretion than zero tolerance or pro arrest policies permit. Other researchers (Buel 1988; Stark 1993) state we must consider why these pro-arrest policies were introduced in the first place and whether conditions, to date, suggest that they are no longer necessary. The Zero Tolerance Policy in Winnipeg, grew out of a judicial inquiry into a domestic matter which ended in murder. The Pedler Report (1991) observed that police response to domestic calls was inconsistent and recommended that Manitoba police forces introduce policies that would clarify the police's role and responsibilities when called to a domestic incident. Pedler's observations are substantiated by numerous studies that indicated that police effectively drew a boundary around what they considered legitimate work ("real crime") and dealt with all other incidents at their own discretion (Black and Reiss 1967). Researchers reported uneven compliance with early attempts to increase arrests for domestic cases (Ferraro 1989; Lawrenz, Lembo and Schade 1988; Mignon and Holmes 1995).

Research on "Aboriginal Victims of Crime" for the Aboriginal Justice Inquiry highlights the danger of relying on police discretion to charge . . . "concern was raised that police officers do not respond to crimes seriously when they involve native women who are intoxicated because it is felt they are responsible for their own victimization" (van der Put, p.18:1988). There is a very real concern among victims and their advocates that police discretion means privileging white middle class women who conform to an idea of the "deserving" victim. Studies and reports of past police practise give evidence that such concerns are well founded.

Numerous studies have documented diversity in officers' attitudes about domestic violence (e.g., Homant and Kennedy 1985; Dolon, Hendricks and Meagher 1986, Breci and Simons 1987; Friday, Metzgar and Walters 1991; Belknap 1995; Stalans and Finn 1995). Further, these studies indicate that police attitudes influence police response and action (Rigakos 1998; Dobash and Dobash 1979; and Ericson 1982 ). McGillivray and Comaskey (1998) document the particular concern Aboriginal women have about police attitudes. Aboriginal women interviewed by Comaskey and McGillivray reported experiences of police not believing them, police judging them, police blaming them for their own victimization: "I've always called the police. As a matter of fact, one time when I called the police, the staff sergeant was upset with me. He says, 'I'm getting pretty upset with you, you're always phoning, calling here, you're getting to be a bloody nuisance . . . I should charge you for harassing, phoning here all the time" (P.96).

The problem of reinstating past practises of police discretion is that we would be returning to past conditions in which discretion frequently translated into non response. (Field and Field 1973; Black 1971). The tragic deaths of Doreen Leclair and Corrine



McKeowen in Winnipeg in February 2000 demonstrates the lethal consequences when police act on their own perception of risk rather than the victims (Winnipeg Free Press, February 17, 2000:1). This case occurred when the Zero Tolerance Policy was in place. It was recognized as a breach of policy and led to a series of inquiries and remedial actions. This tragic case reveals that zero tolerance is not a panacea, that there is still a strong tendency for officers to exercise discretion. A number of service providers<sup>1</sup> in Aboriginal agencies have expressed the opinion that the route to preventing such tragedies is a reinforcement of zero tolerance with a mandated “priority one” response rather than an extension of discretion.

In the absence of the Zero Tolerance Policy such discretion would be exercised much more frequently with the increased potential of lethal consequences. The correlation between the expansion of pro-arrest policies across Canada and the reduction in spousal homicides should not be forgotten.

Finally, it is instructive to note that the two women who were murdered as a result of police failing to respond to the 911 call were Metis. Their sister-in-law expressed concern that the victims’ calls were not taken seriously because they were “poor, Metis women” “Why didn’t they go? Is it because we live in the north end? Did they think they were just a couple of drunken Indians fighting? Is that what they thought?” (Winnipeg Free Press February 18, 2000:1) The Zero Tolerance Policy mandates a “priority one” response without prejudice . . . police do not get to exercise discretion in their response to a domestic call based on their judgement of the callers legitimacy or the ‘deserving’ nature of the victim . . . they are simply mandated to respond. This policy is designed to take attitudes out of action and clarify the role of the police (Buel 1988). However, one Canadian study actually found an improvement of police attitudes towards victims as a result of pro-arrest policies. Jaffe’s (1982) study of a rigorous arrest policy in London, Ontario, found favourable attitude changes among police officers, increased reporting rates and subsequent satisfaction with both the police and the courts by battered women (Jaffe et al 1993). While the development of a sympathetic attitude towards the victim is ideal, currently the most important aspect of zero tolerance is the mandate to respond rapidly and to arrest in circumstances of reasonable and probable cause.

## **Dual Arrest**

Some critics of pro arrest policies have argued that they cause more harm than good because they have increased the incidence of dual arrests or double charging (Comack 2000; Martin 1997). However, before and after measures of the impact of zero tolerance on dual arrests in Winnipeg do not seem to support that assertion. Winnipeg arrest data indicates that in 93% of the domestic calls which police attended and laid a charge, only one person was charged. Over a 5 year period, 1992/93 to 1996/97 dual arrests occurred in 7% of the households in which arrests occurred. As Table 6 below indicates the year prior to zero tolerance 6% of domestic arrests involved dual charges and the years

---

<sup>1</sup>Personal interviews with Sharon Perrault, Coordinator, Family Violence Program, Ma Mawi Wi and Jocelyn Greenwood, Director, Ikwe-Widdjitiwin.

subsequent to zero tolerance 7% to 8% of domestic arrests involved dual charges. An increase of 1% to 2% does not suggest that zero tolerance caused dual arrests. However, this should not lead to the conclusion that dual arrests are not a matter of concern.

**Table 6**  
**Incidence of Dual Arrests In Spouse Abuse Cases\***  
**Winnipeg Family Violence Court 1992 - 1997**

Year	Number of Spouse Abuse Analyzed	Couples		Individuals	
		Number	Percentage	Number	Percentage
1992-93	2,974	166	6%	332	12%
1993-94	3,315	239	8%	478	15%
1994-95	2,883	190	7%	380	14%
1995-96	2,845	228	8%	456	16%
1996-97	2,614	208	8%	416	16%
<b>Total</b>	<b>14,604</b>	<b>1,031</b>	<b>7%</b>	<b>2,062</b>	<b>15%</b>

\* Note: The numbers in this table are larger than our data set for spouse abuse because we included “other” family assaults. These cases also have incidents of dual arrest which are of concern.

Although dual arrests occur in 7 to 8% of the households this results in 14 to 15% of the cases before the courts because 2 persons are charged. The consequences of dual arrests are very troubling. If a woman’s call for help results in her arrest, police punish rather than protect her. This is clearly not the intent of the Zero Tolerance Policy. This could seriously discourage the particular woman from calling the police again when she is at risk and could operate as a deterrent to many women who become aware of the possibility of a dual arrest.

Given the concern that Aboriginal women have identified about being believed by the police, it was important to explore whether Aboriginal families were over represented in the dual arrest category. A review of our data by ethnicity of the accused and/or complainant indicates that Aboriginal families are not at greater risk of dual arrest. Overall, 37% of the FVC cases involve persons of Aboriginal origin, however 33% of the dual arrest cases involve these families. Thus Aboriginal families are slightly less likely to be subject to dual arrest than all other families.

In addition, dual arrests have a negative effect on the pursuit of justice within the courts. Dual arrest cases have a very high stay rate, because the accused has a strong defense of a

consensual fight. When several hundred cases are destined to a stay of proceedings because of a dual arrest questions are legitimately raised about the appropriateness of police intervention. Supporters of zero tolerance acknowledge that there are undoubtedly some cases in which a dual arrest is a legitimate response. However, they also agree with critics who have pointed out that the number of dual arrests is a serious problem that requires clear and appropriate policies to prevent inappropriate dual arrests. However, to conclude that removing zero tolerance would result in removing the problem is just not supported by the evidence presented in Table 6. Dual arrests preceded zero tolerance and would undoubtedly continue subsequent to zero tolerance.

Thus, if the primary motivation for changing police policy is to reduce dual arrests, the policies needed are policies directed specifically to procedures for handling counter accusations. These procedures should be applicable independent of the presence or absence of Zero Tolerance Policy. Two procedures have been advocated and implemented in various jurisdictions with pro arrest policies. The first, recommended by Justice Perry Schulman in the Lavoie Inquiry Report (1997) (practised by the San Diego Police Department) is to determine the primary aggressor and to lay a single charge. The second procedure is to take all of the particulars from the complainant making the 'counter allegation' and submit the particulars to the crown for opinion. Both of these procedures imply more thorough investigation on the part of the responding officers to determine the "real" offender from the person who may be taking physical defensive actions, however, both of these procedures are completely compatible with pro arrest policies.

### **Prevention Rather Than Arrest**

Another criticism of CJS intervention made by Comack (2000) is that we need to intervene earlier and provide assistance before assaults are committed and arrests are made. While this is a statement that no one would disagree with, it outlines an agenda for our entire society rather than a policy specific to the police. Further, it does not provide an answer to the question . . . what do we do in the mean time, when a woman's life is threatened and she calls the police? While prevention is a multi-year, multi-institution issue the Winnipeg Police Service is initiating a pilot project designed to focus more of their energy in the direction of prevention.

As we can see from the Winnipeg police domestic call data (Table 3) police attend many homes in which disputes are underway but no assault has occurred and no arrest is made. However, many police report that they make frequent return calls to certain homes and they see a pattern of escalating tension . . . still no arrest . . . but growing concern that at some point violence will erupt. In the past there was little police could do other than refer the couple to agencies and leave a pamphlet with a list of names and numbers of agencies that provide services for anger management, shelter, etc.

The new pilot project is specifically designed to provide early intervention. Constables on the "beat" will continue to be first responders. However, when these officers report a pattern of, as yet, non criminal escalation, these cases would be referred to the early

intervention team. The team consists of a police officer and social worker who would follow up with the family in question. The police officer could conduct further investigation to ensure that violence had not occurred and the social worker could assess risk and provide referrals to services to support the potential victim and treatment for the potential abuser. This team would then have a close connection to service providers in the community to ensure that referrals are made to agencies who could intervene quickly and appropriately given the identified needs of the couple. This is a completely new idea in Manitoba and Canadian policing and demonstrates that the intent behind the Winnipeg police policy on domestic violence is clearly focused on protection rather than simply punitive intervention. It suggests that there is some real potential within the police service for the development of a new understanding of and new paradigm for justice in policing domestic violence cases.

The programme is a pilot project which will begin with two teams in place for 3 years and an ongoing assessment. If the evaluation is positive there will be a strong case to be made for more teams to provide early non criminal intervention. This concept promises to be particularly valuable for low income and/or Aboriginal women who do not have other alternatives to calling police. They will receive the same 'priority 1' response from the constables on duty to ensure their safety and a more detailed followup response to connect the family to service agencies for assistance.

## **Summary**

The case in favour of zero tolerance or pro-arrest policies is primarily the case for protection. The debates within the academic literature on whether or not arrests deter future violence does not speak to the most pressing problem of deterring the escalation of ongoing or imminent violence. This is the outcome measure most appropriate to assessing police intervention. Given that most social service agencies with the mandate and resources to help prevent future violence events cannot themselves "pass the test" in the short term, it is clearly an inappropriate and unfair measure to assess police intervention. If we refer back to the Minneapolis experiment and its many replications we do find consistent evidence that arrest will effectively interrupt an on going assault and will in the short term prevent an escalation of violence (Sherman and Berk 1984a, 1984b; and Sherman and Cohn 1989; Meeker and Binder 1990; Binder and Meeker 1992).

There is no other service in our city or country other than the police that has all of the essential components for providing protection in high risk situations:

1. provides 24 hour 7 days a week service
2. a rapid response system
3. a response unit trained in high risk intervention
4. a response which ensures separation of victim and accused with restraining orders if the accused is released
5. a response without prejudice (no discretion)

The above components exist only among police forces and the Zero Tolerance Policy is the Winnipeg police service's attempt to ensure that all five components are operating when a person at risk calls the police. Failures and shortcomings in the existing policy require attention and redress. Both the provincial and city Lavoie Inquiry implementation committees have identified ongoing monitoring of police implementation of their policy and ongoing training of officers as essential developments. These processes are currently being implemented by the Winnipeg Police Service.

## PART 3

### PROSECUTION

#### **Prosecution Policy**

With the expansion of police pro-arrest policies throughout North America there has been a complementary move to encourage more rigorous prosecution of domestic violence offenders. The circumstances which led to more aggressive prosecution policies parallel the experience of police. Historically prosecutors had taken minimal action on the few domestic violence incidents that came to their attention. “Authors of early studies of prosecutorial discretion in these cases remarked on the infrequency of formal action (Parnas 1967; Field and Field 1973; Davis and Smith 1982; Ford and Regoli 1993; Schmidt and Steury 1989; Fagan 1989)” (Worden, p. 237, 2000). As a result many jurisdictions across North America have developed pro-prosecution or no-drop policies. Despite these policies even recent studies report rates of case attrition through stays of proceedings of almost 50% (Davis, Smith and Nickles 1998; Ursel 2000). The replication studies of the Minneapolis experiment report even higher attrition rates (Garner, Fagan and Maxwell 1995).

Prosecutors consistently explain the high rate of stays of proceedings in terms of victim ambivalence. Prosecutors report that they are very dependent on the victims testimony because domestic assaults seldom have witnesses and do not necessarily provide a rich source of material evidence. The concept of “uncooperative witness” is derived from the assumption that the victims ought to share the prosecutors objective of conviction; an implied corollary is that victims who fail to cooperate forfeit their entitlement to the benefits of the legal system (Stanko 1982).

“Researchers and victim advocates have questioned both assumptions. First, some argue that prosecution could, and ought to, encompass a wider array of objectives, including victim safety (which might be promoted by the offenders legal entanglement, independent of the ultimate outcome), communicating to offenders the unacceptability of the violent act, and investing victims with greater power and agency in dealing with violent partners (Fields 1978; Lerman 1981; Mickish and Schoen 1988)” (Worden p. 238:2000).

The ‘disconnect’ between the prosecutors objectives and the victims objectives is further evidence of the lack of fit between the needs of family violence victims and the traditional justice paradigm. If the old paradigm of justice is not appropriate what information do we use to construct a new paradigm and what are the critical components of the paradigm? The most significant research bearing on these questions are studies of victim motivations and self-defined needs. Ford (1991) reports that, contrary to

stereotypes, victims seldom withdraw from prosecution because of second thoughts about their romantic relationships; instead, they engage the legal system for practical reasons . . . protection from violence, attempts to get help for abusive partners, attempts to enforce collection of child support, or the need to recover property . . . and tend to withdraw from prosecution after these objectives are achieved (McLeod 1983; Ford and Burke 1987; Snyder and Scheer 1981, McGillivray and Comaskey 1998). Further, studies indicate that victims are less interested in public confrontation and punishment for their abusive partners and more interested in economic survival, coping with aftereffects of violence, and securing safety for themselves and their children (Sullivan, Basta et al. 1992). The traditional justice paradigm casts victims and prosecutors in conflicting roles in which they both attempt to use the same system for divergent ends. It is not surprising that within a structured contradiction prosecutors, victims and judges were frustrated with the outcome.

Historically, measures of success within the CJS have been one-dimensional, focusing on 'outcome' rather than 'process', and mired in the 'single-incident' framework. This framework encourages police officers, crown attorneys and judges to view their role as a single, preferably decisive intervention. However, survival and recovery are seldom single-event propositions. A single police response, court appearance or stay in a woman's shelter do not miraculously change the complex web of love, fear dependency and intimidation composing the fabric of an abused woman's life. The definitions of success and the culture of work within the CJS must change in order to do justice for these families.

The most important change would be for CJS staff to understand the paradox of dealing with family violence: circumstances often make CJS intervention a critical matter of life or death, yet this intervention is profoundly limited. At one point in time, a quick police response, a denied bail request or a jail sentence may be critical for preventing a domestic homicide; however, such outcomes cannot, in and of themselves, prevent the cycle of abuse. This means that the CJS must redefine success. If we can change the goals of intervention from conviction (a one-dimensional outcome) to redressing dangerous power imbalances (a complex process of empowerment), then possibly the CJS could offer women-at-risk meaningful interventions.

Throughout North America there have been two approaches to bridge the gap between prosecutors' roles and expectations and victims' needs and interests. The first approach, frequently referred to as the "no-drop" policy attempts to bridge the gap in the favour of traditional prosecutorial goals. This model works within the traditional justice paradigm in which success is measured by conviction and directs prosecutors to proceed with the prosecution in spite of the victims needs or wishes. The emphasis is upon more thorough investigation, and greater reliance on expert witnesses and material evidence rather than victim/witness evidence. This option has been adopted more frequently in the United States than in Canada. Prosecutors began to experiment with no-drop policies in the early 1980s (Ford and Regoli 1993), ostensibly to release the victims from formal responsibility for pursuing charges. No-drop policies have received mixed reviews by researchers and advocates (Corsilles 1994; Ferraro and Pope 1993; Gookasian 1986b). Some advocates have approved of reducing prosecutorial discretion in the hopes of reducing pressure on victims. "Skeptics suggest that the effect, if not the intent, of no-

drop policies is to legitimize prosecutors' early case-screening decisions by culling complainants who are committed to prosecution early in the process, and to protect prosecutors' investments in case development at later stages if victims start to waver in their commitments. At the extreme, some prosecutors maintain that they would subpoena reluctant victims to testify to ensure the conviction of a batterer" (Worden p. 239 2000).

The second approach, practised within the Winnipeg FVC attempts to bridge the gap between prosecutors and victims through the pursuit of a new paradigm of justice intervention. This paradigm takes as its starting point that victims' needs and concerns should guide the course of justice intervention. This approach encourages prosecutors and other personnel in the justice system to define "success" in terms of meeting the complex needs of the victim and her family rather than seeking conviction as the most desired outcome. This does mark a radical departure from the traditional justice paradigm. This departure, however, provides more degrees of freedom to the prosecutor, and more flexibility in court personnel's ability to respond to the stated needs of the victim and her/his family.

### **Constructing a New Paradigm of Justice**

Manitoba has been the single jurisdiction in North America that has come closest to constructing a new paradigm of justice intervention in domestic violence cases. Four factors distinguish this system from the more limited reforms implemented in the United States ( i.e., pro-arrest, no drop policies).

1. Justice personnel have moved away from the single incident perspective and the single measure of success (conviction), towards a 'process perspective' on intervention.
2. The information utilized to construct an alternative response is the lived and expressed needs and interests of the family caught up in the destructive dynamic of abuse.
3. The components of a domestic violence sensitive response consist of specialized services within the criminal justice system.
4. The measure of success responds to the needs and interests of victims and their family and protocol is outlined in the crown attorneys policy on prosecuting domestic violence cases.

While we can outline the factors which constitute an alternative approach to justice in an orderly and sequential manner, history seldom unfolds in the same orderly fashion in which it is recorded. The history of change in the Winnipeg CJS begins with the components of specialization which constitute the Family Violence Court. Changing attitudes and procedures evolved in fits and starts as the lived reality of "trying to do justice differently" led to different attitudes and interventions over time. Constructing a new system out of "whole cloth" necessarily entails some false starts and wrong directions along the way and clearly the system is still evolving. However, the changes that have been made, to date, suggest some reason to be optimistic about the justice systems ability to "do justice" in domestic violence cases.



The critical first step in changing the justice response in Winnipeg was the acknowledgment that the existing system wasn't working. In search of a more responsive system specialization began to be introduced into the criminal courts. The 'short hand' for this expanding process of specialization is referred to as the Family Violence Court which began operating in September of 1990. The components of the specialized criminal court are:

1. A family violence unit in the prosecutors office with designated crown attorneys who exclusively prosecute family violence matters from initial bail hearings to trial;
2. The Women's Advocacy Program, composed of counselors who assisted women whose partners have been charged. Their mandate is to work with these women to develop safety plans, to provide information on the court process and to provide information to the crown attorney when victims request variations in bail conditions or indicate they want to have the crown stay proceedings;
3. Designated court rooms for first appearances, screening courts and trials, to provide the most expedient processing of domestic violence cases;
4. Initially 14 designated judges sat in these court rooms but as the volume rapidly increased all provincial court judges now rotate through the designated courts.

One of the consequences of this specialization was a redefinition of the "work culture" that occurred in the FVC special-prosecution unit. Prior to specialization, neither the structure nor values of the crown attorney's office were responsive to the needs of domestic violence victims. For prosecutors success was conviction. In this environment 'domestics' were low profile, messy cases with minimal chances for conviction. Structurally, the conviction standard of success punished crown attorneys who invested time in domestic cases.

The creation of the specialized family violence unit in prosecutions was a necessary but not sufficient impetus to change prosecutorial culture. The critical complement to the structural changes was the introduction of a policy guideline (see Appendix A) to assist crown attorneys in the prosecution of domestic violence cases. The policy guideline reflects the dual consideration of rigorous prosecution and sensitivity to the victim. This policy opened the door to questioning the traditional objectives of prosecution, if the only way to get a conviction was to subpoena the witness and in some cases treat her as a "hostile witness" this would clearly fall into the category of revictimizing the victim. The dual mandate, rigorous prosecution and sensitivity to the needs of the victim has the potential to encompass a wider array of objectives, including victim safety, communicating to the offender the unacceptability of violence and potentially investing victims with greater power and agency in dealing with a violent partner (Worden 2000). All of these outcomes can potentially be achieved in the absence of a conviction. While the dual mandate set a high standard of performance for the crown attorney, that exceeds the single measure of conviction, it also extends a broad range of discretion to achieve that standard, (it bears no resemblance to the no-drop policy). In identifying the victim as a priority equal in importance to the goals of rigorous prosecution the guideline directs

crown attorneys to consider the needs of the victim as their reference point in exercising their discretion.

Some might reasonably argue that this dual mandate is unworkable. With specialization, however, this has not been the case. It does require crown prosecutors to be able to tolerate a high stay rate, with the knowledge, however, that victims who are not able or willing to testify at one point in time may well need to do so after they have exhausted all other alternatives. Crown attorneys have rich anecdotal evidence of women who have come to a decision to testify after numerous unsuccessful attempts to control their partners' behaviour through police calls alone. This parallels the experiences of shelter workers who report that women frequently use shelter services a number of times...returning to their abusive partner with the hope that the abuse will end (MacLeod 1987, 1989). In this context stays of proceedings should be understood as part of a long process in which women pursue many remedies short of a final break...i.e. divorce or testimony to convict...to secure their safety (McLeod 1983; Ford and Burke 1987; Snyder and Scheer 1981). It is, fundamentally important that in this process women do not receive the message that failure to 'cooperate fully with the prosecutor' at one point in time implies forfeiting her right to legal intervention in the future. For this reason it is critical for the crown attorney's to understand their role in terms of 'process'.

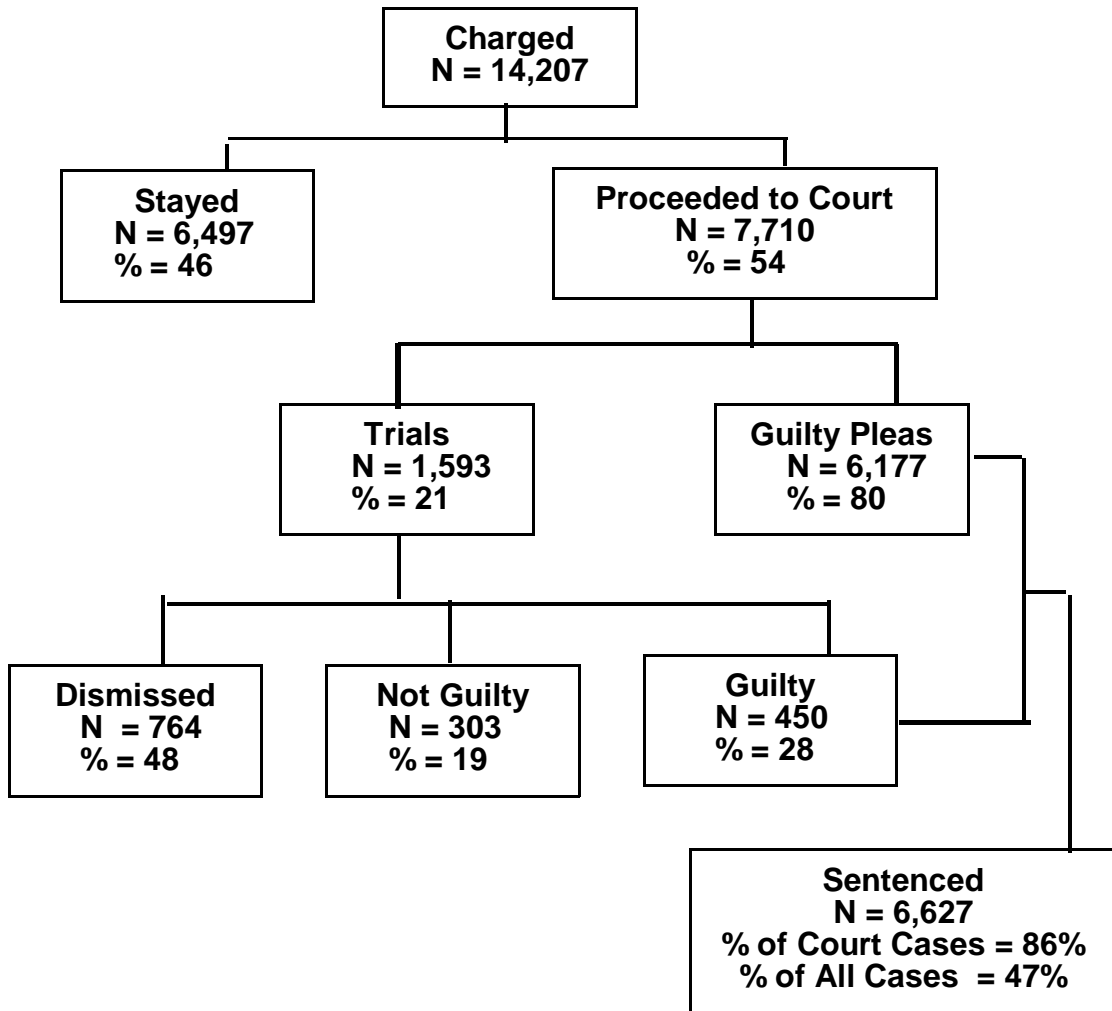
Over time the culture of the prosecutions office has changed. Crown attorneys have been able to let go of the one dimensional "conviction" measure of success and adopt a process perspective . . . assisting victims in securing a safer life. In this light "justice" becomes less about "crown success in court" and more about the victim/family's need to redress a destructive power imbalance. This new reference point resulted in much greater consideration of the victims pragmatic concerns and interests which in turn shaped crown attorney's behaviour and court outcomes. The two distinctive outcomes of the guidelines for prosecution of domestic violence cases are 1. the introduction of testimony bargaining and 2. the acceptance by the crown that there would be higher stay rates.

### **Prosecution Practise**

The most frequent outcome of an arrest for domestic assault is a stay of proceedings (46%) and the second most frequent outcome is a guilty plea (43%). The crown attorneys play a critical role in both of these outcomes. The Chart below indicates the progress of cases from entry in the system to sentencing. The Zero Tolerance Policy provides for a very wide catchment of cases at the front end of the system and prosecutorial discretion results in a funneling of cases through the system. Stays of proceedings and guilty pleas are an important part of the funneling process. Stays of proceedings occur when there is no reasonable chance of conviction and therefore no reasonable grounds for proceeding to court. Guilty pleas reduce court time by limiting the court's role to the determination of sentences.

**Figure 6**

**Spousal Abuse Cases\*  
Winnipeg Family Violence Court  
1992 - 1997**



**\* 16 Accused Deceased**

When determining whether to stay a case or proceed the issue of evidence is paramount. As discussed earlier it is a characteristic of domestic violence cases (that occurs behind closed doors) that ‘evidence’ often comes down to whether the victim is willing to testify. Thus, before we consider stay rates and the various concerns they raise, we will examine strategies of the crown to increase the victim’s willingness to testify. These strategies have an impact on guilty pleas and consequently reduce the number of stays of proceedings.

### **Plea Bargaining and Testimony Bargaining**

Plea bargaining is one of the least visible, most extensive and most controversial practises of crown attorneys (Genova,1981; Verdun-Jones and Hatch, 1985). The Law Reform Commission of Canada (1975b:45) defined a plea bargain as “any agreement by the accused to plead guilty in return for the promise of some benefit.” Typically, plea bargaining is understood as the process whereby the crown attorney agrees to proceed on lesser or fewer charges in order to obtain a guilty plea. In FVC plea bargaining can and does take place when there is only one charge, usually common assault. In these circumstances there is no reduction in the number or severity of the charge; however, the crown attorney can and does engage in ‘fact bargaining’. Fact bargaining involves an agreement not to ‘volunteer’ information detrimental to the accused or not to mention a circumstance of the offence that may be interpreted by the judge as an aggravating factor. For example, in a common assault case in which the accused is alleged to have slapped the victim and pushed her against the wall, the crown attorney could agree to read in the slap and omit the shove. Sentence bargaining in FVC typically occurs with the crown attorney agreeing not to oppose defence counsel’s sentence recommendation; this is accomplished by the crown attorney refraining from making any recommendation regarding sentencing (Ursel 1995:48).

There is no formal policy on plea bargaining in FVC or in any other court, and it is practised extensively in FVC. Canadian studies suggest that plea bargaining occurs in 60 per cent (Solomon 1983:37) to 70 per cent (Ericson and Baranek 1982:117) of the cases that go through criminal court. The flow chart above indicates that 80% of the cases that proceed to court in FVC are a result of a guilty plea. About 70 percent of the guilty pleas in FVC are entered in docket or screening court (Ursel 1995:48). In these early plea-bargain cases, the ‘bargain’ is typically between the crown attorney and the defence and/or accused. However, another form of bargaining occurs in FVC, which may be unique to this specialized court. In such cases the crown attorney ‘bargains’ with the victim/witness. These examples of “testimony bargaining” typically occur when cases are scheduled for trial and the victim is reluctant to testify because of her fear that her partner will go to jail. The crown attorney will discuss the case with the reluctant witness and indicate a willingness to reduce the number or severity of the charges, and/or recommend probation and court-mandated treatment in return for the victim/witness’s cooperation. Guilty pleas entered at trial, when the accused and defence counsel observe the presence of the witness, are often a result of “testimony bargaining.”

The characteristic feature of family violence cases . . . victim dependence on and bonding with the accused . . . is probably the single most important factor in explaining the high rate of plea bargaining and the unusual practise of testimony bargaining found in FVC. Successful plea bargaining meets the requirements of rigorous prosecution and achieves court intervention and sentencing while sparing the victim the trauma of testifying. As the Flow Chart indicates, the crown attorney's ability to obtain a sentence is greatly reduced if the case goes to trial. Through the process of traditional plea bargaining, or the more innovative testimony bargaining, the crown attorney is able to meet the dual and potentially conflicting mandates of rigorous prosecution and sensitivity to the victim.

### **The Problem With Stays of Proceedings**

Concerns with stays of proceedings raised by crown attorneys and victim advocates alike are:

1. There is much lower capacity to motivate accused to attend treatment and;
2. There is little standardization of or quality control over the type of counseling an accused would receive.

In response to these concerns a new programme is under discussion within Manitoba Justice. This programme is best described as a Rehabilitative Remand. The intention behind this concept is to ensure that the accused is motivated to attend treatment by delaying the hearing. One could see this as an elaboration of the testimony bargaining process. When a case comes to the attention of the crown attorney in which the victim/witness is adamant about not proceeding, but does admit that violence is an issue there can be another alternative to a simple stay. In such a case, with proper protocol in place, i.e. if it is a low risk case, and if the victim and the defense lawyer "consent" the crown will have the option of offering a delayed remand. The case will be remanded until the accused attends and completes a treatment programme, with the agreement that a successful completion of treatment would result in a stay of proceedings. Under these circumstances it should be possible for the crown attorney to specify the type of treatment the accused accesses.

For the thousands of women and men who are not be able to identify or utilize services other than calling the police when matters escalate, a Rehabilitative Remand provides a non-criminalizing intervention. This option puts the pressure on the system rather than the victim or the family. If Rehabilitative Remands are pursued, the onus will be on the criminal justice or social service system to ensure that enough treatment programmes are available to provide the requisite treatment in a timely fashion. This would have the effect of institutionalizing support. To some extent this has been the effect of the Zero Tolerance Policy . . . but only if the accused is convicted (see section on corrections). Rehabilitative Remands would extend this effect to families in need without the necessity of conviction.

This option is most relevant for low income and disenfranchised families. As discussed earlier middle class people can turn to a variety of services to obtain assistance in a time of crisis, however, low income families have many fewer resources to draw on and fewer

means of accessing the services that are available. The Rehabilitative remand, in combination with rapid police response, would have the effect of providing both rapid response at a time of crisis and longer term treatment without the necessity of conviction. In short, this option could potentially double the treatment resources currently available by mandating treatment.

A final concern with stays of proceedings is the very high stay rate that is associated with dual arrests. While it is hoped that improved police policy and practise on this issue will reduce the number of dual arrests it is unlikely that all dual arrests will be eliminated. In some circumstances a dual arrest may be the most appropriate response based on the evidence before the police. In such circumstances it would be advisable for the crown to attempt to fast track such cases. In addition, with proper assessment, both defendants may well be ideal candidates for a rehabilitative remand. In complex cases of dual arrest it may be necessary to ask the Women's Advocacy Program to revisit their policy of not providing service to women who have been charged. In cases of unavoidable dual arrest it seems particularly pressing to establish whether the women's behaviour was defensive or offensive. In such cases provision should be made for the Women's Advocacy Program to assist the crown attorney in making a determination.

Specialization within the criminal justice system in Winnipeg has demonstrated greater flexibility and sensitivity in responding to domestic violence cases than past practises or the traditional model of justice. However, this report is concerned with both the capacity of the justice system in responding to domestic violence cases and its impact on Aboriginal people. Thus, our subsequent analysis of court data will focus on the experiences of Aboriginal and non-Aboriginal accused.

## **PART 4**

### **THE COURT**

Prior to specialization within the Winnipeg criminal justice system the most frequent outcome for a convicted spouse abuse offender was a conditional discharge (Ursel 1992:139). This meant no treatment, no punishment, no record of criminal behaviour . . . in short no consequences. This occasioned concern on the part of women's advocates, about the lack of serious consequences for spouse abusers. This concern in combination with the increasing number of family violence matters coming to court led to the development of the Family Violence Court. Since the implementation of FVC in 1990, sentencing practises have changed dramatically. The most frequent disposition in FVC today, is supervised probation and court mandated treatment, the second most frequent disposition is incarceration (Ursel 1992:139).

The call by women's advocates, including Aboriginal women, for serious consequences for spouse abuse offenders comes into conflict with the concern of Aboriginal advocates about the over-representation of Aboriginal people in the criminal justice system. This conflict of interests is particularly acute in our province. Manitoba, like all prairie provinces, has a greater over-representation of Aboriginal people in the justice system than the national average. Manitoba also has a rigorous arrest, prosecution and sentencing approach to domestic violence offenders. These two patterns highlight the contradictory expectations on the part of women's advocates and Aboriginal advocates concerning the appropriate role of justice. In addition, there is systemic support for both sets of expectations. On the one hand zero tolerance and rigorous prosecution policies respond to the concerns of women's groups including Aboriginal women. On the other hand, there has been equally strong systemic support for the concerns of Aboriginal advocates in the amendments to the criminal code on sentencing principles (section 718.2(e) that advise

. . . “all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.”

Given the complex and contradictory sets of expectations our citizens have of our courts, how do spouse abuse offenders fare in the Winnipeg family violence courts and are there significant differences for Aboriginal and non-Aboriginal offenders?

## Stays of Proceedings

As indicated earlier, the most frequent outcome of an arrest in a domestic assault case in Winnipeg is a stay of proceedings (46%) and the second most frequent outcome is a guilty plea (43%). Many factors play into the determination of both of these outcomes and these outcomes are the beginning of a funneling of cases that eventually proceed to court. Thus, we are interested in whether there are differences in stay rates and guilty plea rates by ethnicity. A comparison of the stay rate among accused by ethnic origin indicates that non-Aboriginal accused are more likely to receive a stay of proceedings.

**Table 7**  
**Stay of Proceedings by Ethnicity of Accused**

Ethnicity	Total Accused	Stay of Proceedings	
		Number	Percentage
Aboriginal	5,319	2,275	43%
Non-Aboriginal	8,888	4,222	48%

Because fewer Aboriginal accused receive a stay of proceedings a greater percentage are likely to proceed to sentence. A 5% difference between Aboriginal and non-Aboriginal stay rates when we are considering thousands of cases can add up to a significant difference. However, 'stay' rates may well be affected by differences in the nature of the crime. Thus, a number of controls were introduced to see if weapon use, prior record and seriousness of charge were factors that influenced a crown attorney's decision to stay. The data does indicate higher rates of weapon use and higher rates of a prior record among Aboriginal accused (see table 5).

In order to measure these effects we first consider the separate effects of weapon use and prior record. We also look at their combined effect. To do so we created two composite categories: The first category labeled 'Most severe crime' - includes cases in which there is use of a weapon, prior record for crimes against persons and serious charges<sup>2</sup>. The second category labeled less severe crime - includes cases in which there is no use of weapon, no prior record for crimes against persons and less serious charges<sup>3</sup>.

---

<sup>2</sup> Most serious charge includes: murder (1<sup>st</sup> and 2<sup>nd</sup> degree), attempted murder, manslaughter, assault with a weapon, assault causing bodily harm, sexual assault, sexual assault with threats/bodily harm/weapon, aggravated sexual assault, criminal harassment/stalking.

<sup>3</sup> Less serious charge includes: common assault, uttering threats, possession of a weapon, breaches, break and enter, harassing/annoying phone calls, robbery, mischief, etc.



When we control for weapon use alone, we see the differential between Aboriginal and non-Aboriginal stay rates drop from 5% to 2%. When we control for all three factors together and compare stay rates for those in the most serious composite categories we see an inverse relationship between charge and stay rates by ethnicity. Table 8 indicates that Aboriginal accused have a lower stay rate than non-Aboriginal accused for less serious crimes and a higher stay rate for more serious crimes. This suggests a fairly complex interaction effect between weapon use, prior record, crime severity and ethnicity.

**Table 8**  
**Stay of Proceedings by Ethnicity in Spouse Abuse Cases**  
**Controlling for Weapon Use, Prior Record and Crime Severity**

	<b>Aboriginal</b>	<b>Non-Aboriginal</b>
All Cases	43%	48%
Prior C/A*	39%	48%
Weapon Used	46%	48%
Most Serious Offence	40%	37%

\* C/A crimes against persons

Ultimately, the crown attorney’s decision to proceed to court is determined by their assessment of whether there is a reasonable likelihood of conviction. This of course is determined by the evidence available to the crown. It is possible that in more serious crimes there is additional evidence and the crown may not be completely dependent on the victim/witness’s willingness to testify. Aboriginal accused are over-represented in the most serious offence category. People of Aboriginal origin constitute 37% of accused, however, they represent 56% of accused in the most serious offence category. Thus, Aboriginal accused may be involved in cases with the greatest evidentiary resources.

**Guilty Pleas**

The next stage in the processing of a criminal case is the plea. In FVC Aboriginal accused are somewhat more likely to plead guilty 46% compared to non-Aboriginal offenders 42%. When controls are introduced for prior records for crimes against persons the difference between Aboriginal and non-Aboriginal guilty plea rates is reduced to 1 percentage point. When we look at more serious assaults including use of weapon and the composite category most serious offence the pattern of guilty pleas

reverses itself. Thus guilty pleas are similar to stays of proceedings in which the seriousness of the crime interacts with the ethnicity of the accused.

**Table 9**  
**Guilty Plea by Ethnicity in Spouse Abuse Cases**  
**Controlling for Weapon Use, Prior Record and Crime Severity**

	<b>Aboriginal</b>	<b>Non-Aboriginal</b>
All Cases	46%	42%
Prior C/A*	47%	46%
Weapon Used	40%	42%
Most Serious Offence	42%	47%

\* C/A crimes against persons

We acknowledge that perhaps the most important factor influencing pleas and stays of proceedings, is the crown/defense assessment of the likelihood of the victim testifying. While we have anecdotal evidence from the crown attorneys that this is the critical determinant in their decision to stay, unfortunately co-operation of the witness prior to trial is not recorded in our data.

Lower stay rates and higher guilty plea rates result in proportionally more Aboriginal accused proceeding to court. At the court level there are two factors to consider: First, in contested cases is there a difference in the finding of guilt by ethnicity? Second, in the cases that proceed to sentence is there a difference in sentences by ethnicity?

### **Contested Cases**

In the first instance, ethnicity does not appear to be a determinant of who goes to trial 11% of Aboriginal accused and 10% of non-Aboriginal accused go to trial. Table 10 indicates trial outcome by ethnicity. Non-Aboriginal accused are more likely to be found guilty (33%) than Aboriginal accused (24%). However, this difference is a result of the higher number of dismissed cases for Aboriginal accused, given that Aboriginal accused are also less likely to be found not guilty.

**Table 10**  
**Trial Outcomes in Spouse Abuse Cases by Ethnicity**

Ethnicity	Trial	Guilty		Not Guilty		Dismissed	
		Number	Percentage	Number	Percentage	Number	Percentage
Aboriginal	609	148	24%	96	16%	365	60%
Non-Aboriginal	911	302	33%	207	23%	402	44%
<b>Total</b>	1,593	450	28%	303	19%	764	48%

The higher rate of dismissed or discharged cases for Aboriginal accused (60%) suggests an even greater reluctance on the part of Aboriginal victims to attend to court and testify than non-Aboriginal victims. Testifying against a family member or loved one is very difficult for all victims in family violence matters. However, it appears to be particularly difficult for Aboriginal victims. As a result, despite the small percentage of cases that go to trial, only 40% of Aboriginal accused and 56% on non-Aboriginal accused receive a verdict.

When we consider the cumulative effect of court processing to this point, we see that a slightly higher percentage of Aboriginal accused proceed to sentencing (39%) than were arrested (37%). Conversely a slightly lower percentage of non-Aboriginal accused proceed to sentencing (61%) than were arrested (63%)

**Table 11**  
**Spouse Abuse Cases That Proceed to Sentencing**  
**By Ethnicity**

	Total	Aboriginal		Non-Aboriginal	
	Number	Number	Percentage	Number	Percentage
Arrest	14,207	5,319	37%	8,888	63%
Guilty Plea	6,177	2,434	46%	3,743	42%
Guilty Verdict	450	148	33%	302	67%
Sentenced	6,627	2,582	39%	4,045	61%

## Sentencing

As a result of the processes discussed above 6,627 or 47% of the accused were convicted and proceeded to sentencing. Of these convicted offenders 2,528 or 39% are Aboriginal and 4,045 or 61% are non-Aboriginal.

The most frequent sentence for spouse abuse in FVC is supervised probation. Overall we find little difference by ethnicity in sentences to supervised probation, 61% of Aboriginal offenders and 62% of non-Aboriginal offenders are sentenced to supervised probation. There is a slightly greater difference in sentences to unsupervised probation with 7% of Aboriginal offenders receiving this sentence compared to 10% of non-Aboriginal offenders. As in all criminal courts offenders often receive multiple sentences. Offenders may be fined in addition to receiving a suspended sentence or a period of probation. When we consider fines, ethnicity does not appear to be an important factor, 16% of Aboriginal offenders and 18% of non-Aboriginal offenders received a fine. The two outcomes in which ethnicity appears to be a factor are the most and least serious sentences, i.e. conditional incarceration and discharge. Table 12 identifies all sentence outcomes by ethnicity of the offender.

**Table 12**  
**Sentences of Spouse Abuse Offenders By Ethnicity**

	Aboriginal		Non-Aboriginal	
	Number	Percentage	Number	Percentage
Cases Proceeding to Sentence	2,528		4,045	
Incarceration	763	30%	694	17%
Supervised Probation	1,573	61%	2,494	62%
Unsupervised Probation	178	7%	399	10%
Fine	409	16%	737	18%
Suspended Sentence	667	26%	1,116	28%
Conditional Discharge	212	8%	859	21%
Absolute Discharge	38	2%	82	2%

\* Percentages add up to more than 100 due to multiple sentences per offender

Research indicates that Aboriginal offenders are more likely to receive sentences of incarceration than non-Aboriginal offenders (LaPrairie 1996). The data from FVC is consistent with these findings, convicted Aboriginal offenders (30%) are almost twice as likely to be sentenced to a period of incarceration than non-Aboriginal offenders (17%). This means that although there were 1,463 more non-Aboriginal offenders sentenced there were actually 69 more Aboriginal offenders who went to jail. Conversely when we

consider the least serious outcome, conditional discharge, we see that non-Aboriginal offenders are almost 3 times as likely to get a conditional discharge than an Aboriginal offender. To determine what factors may result in this polarization we controlled for a number of variables related to seriousness of offence. Table 13 indicates that there is an inverse correlation between the seriousness of the offence and the sentence of conditional discharge. However, in all cases in which we controlled for offence characteristics Aboriginal offenders were less likely to receive a conditional discharge than non-Aboriginal offenders with the one exception for the combined category (most serious offence) in which Aboriginal offenders were more likely to receive a conditional discharge.

**Table 13**  
**Conditional Discharge Sentences of Convicted Spouse Abuse Offenders**  
**Controlling for Weapon Use, Prior Record and Severity of Offence**

	Aboriginal		Non-Aboriginal	
	Number	Percentage	Number	Percentage
Conditional Discharge	212	8%	859	21%
No Weapon		8%		22%
No Prior C/A*		22%		37%
Least Serious Offence		24%		40%
Prior C/A		3%		7%
Weapon Used		9%		16%
Most Serious Offence		5%		2%

\* C/A crimes against persons

When we apply similar controls for offence characteristics to the differential in incarceration rates we find very little moderation of the effects of ethnicity. Table 14 indicates that the discrepancy between Aboriginal and non-Aboriginal offenders who are incarcerated is 13 %. The only circumstance in which Aboriginal and non-Aboriginal offenders rates of incarceration are similar are in cases in which the offender has no prior record for crimes against persons and in the category least serious offence. However, neither of these are very heavily populated categories. When other controls are introduced, the discrepancy is only slightly moderated.

**Table 14**  
**Incarceration of Convicted Spouse Abuse Offenders By Ethnicity,  
Controlling for Weapon Use, Prior Record and Severity of Offence**

	Aboriginal		Non-Aboriginal	
	Number	Percentage	Number	Percentage
Incarceration	763	30%	694	17%
No Weapon		28%		16%
No Prior C/A*		9%		7%
Least Serious Offence		8%		5%
Prior C/A		37%		26%
Weapon Used		34%		22%
Most Serious Offence		47%		37%

\* C/A crimes against persons

The differential incarceration rates for Aboriginal offenders seems contradictory to the intent of the amendment to the criminal code on sentencing principles, i.e. (Section 718.2(e) which advises “all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.” Unfortunately, our data only covers the first year and a half after the amendment and we don’t have a sufficient number of cases to determine the effect of the amendment. I do have anecdotal information from a colleague of mine<sup>4</sup> that conditional sentences began to occur with greater frequency from 1998 on and that these conditional sentences include domestic violence cases. However, at this stage it is not clear how frequently this occurs or what impact this will have on incarceration rates of Aboriginal offenders.

The consistent differences in the rates of conditional discharge and incarceration by ethnicity raises troubling questions about ethnic bias in sentencing. However, we are well aware that our data does not capture all of the facts before the court, in particular, we do not have all of the information on mitigating and aggravating factors which are weighed at the time of sentencing. To explore the question of “missing” information I consulted with Judge Murray Sinclair of Winnipeg provincial court<sup>5</sup> and Janice LeMaistre, the director of the family violence unit in prosecutions. They both suggested possible interpretations based on information our data does not capture.

---

<sup>4</sup> Personal communication with Professor S. Brickey who is conducting a study of conditional sentences in Winnipeg courts.

<sup>5</sup> Judge Sinclair has since been elevated to Court of Queens Bench.

Judge Sinclair suggested that if the convicted offender had a prior history of incarceration it makes it much more likely that they would receive a sentence of incarceration for subsequent offences. In the case of sentencing an offender with a history of prior incarceration and recidivism the sentencing judge would have little confidence that a non-carceral sentence would be appropriate. Our data does indicate that Aboriginal offenders have a higher prior record rate (91%), a higher prior record for crimes against persons (72%) and a higher prior record for domestic assaults (50%), (see Table 5). Unfortunately, while our data does record prior record we do not know the sentence outcomes on prior convictions.

Crown Attorney Janice LeMaistre suggested that if there was a long history of prior stays for offences against the same partner the crown attorney would treat that history as an aggravating factor and would be more likely to recommend a period of incarceration. Our data only records prior convictions but not prior charges that resulted in stays of proceedings. However, the information we have on the higher rates of dismissal at trial 60% for Aboriginal accused and 44% for non-Aboriginal accused does suggest greater reluctance on the part of Aboriginal victims to testify (Table 9). Over time this would result in the greater accumulation of previous charges that were stayed/dismissed for Aboriginal offenders relative to non-Aboriginal offenders. While that is the logical outcome of the higher dismissal rates for Aboriginal offenders our data does not provide a means to measure the impact of these factors on sentencing. However, a reasonable proxy for this measure, i.e. how vulnerable is the victim, how often has she been victimized, would be to examine the incarceration rates of offenders by the ethnicity of the victim.

### **Victim's Ethnicity**

Sentencing studies typically focus on the characteristics of the accused. However, we have argued that in studying the issue of family violence we must consider the stand point of the victim as well as the stand point of the accused. Further, we have cited Canadian studies which indicate that Aboriginal women are three times more likely to suffer abuse than non-Aboriginal women (Statistics Canada 1999 General Social Survey on Victimization). Could the greater vulnerability of Aboriginal women play some role in sentencing? In addition, our justice system is being called upon to be more accountable to victims resulting in policies such as the victim impact statement and the victim's bill of rights. We have argued earlier that the victims' stand point is often different from the stand point of the accused and evidence suggests that this is equally true among Aboriginal victims. Therefore, while it is not typical in sentencing studies, we examined incarceration rates by the ethnicity of the victim as well as the ethnicity of the accused. Some interesting differences emerge when we consider the intersection between ethnicity of the victim and the accused. We have introduced a column titled Total N to indicate the number of same and cross ethnic assaults in order to clarify that our results are not just an artifact of extremely small numbers.

**Table 15**  
**Incarceration Rates by Victim and Offender Ethnicity**

Victim	Total	Aboriginal Offender		Total	Non-Aboriginal	
	N	Number	Percentage	N	Number	Percentage
Aboriginal	726	273	31%	332	95	29%
Non-Aboriginal	205	49	24%	1,560	238	15%

When no controls are introduced other than matching the ethnicity of the offender to the ethnicity of the victim we find that the discrepancy in incarceration rates is reduced to 2 percentage points when we compare Aboriginal (31%) and non-Aboriginal (29%) offenders who assaulted Aboriginal victims. However, a discrepancy of 9 percentage points in incarceration rates is maintained when we compare Aboriginal (24%) and non-Aboriginal (15%) offenders who assaulted non-Aboriginal victims.

If ethnic bias was the explanatory factor in the differential incarceration rates then we would not expect that non-Aboriginal offenders would receive similar rates of incarceration to Aboriginal offenders when the victim was Aboriginal. Yet this is the case demonstrated in Table 15.

Further, when particular controls are introduced the discrepancy in incarceration rates for Aboriginal and non-Aboriginal offenders who assault Aboriginal victims are further reduced and in some cases reversed. When we compare Aboriginal and non-Aboriginal offenders who assault Aboriginal victims and control for no weapon used and severity of the charge the discrepancy is reduced to 1 percentage point. When no weapon is used in an assault against an Aboriginal victim 30% of Aboriginal offenders are incarcerated compared to 29% of non-Aboriginal offenders. When a serious charged is laid in an assault against an Aboriginal victim 37% of Aboriginal offenders are incarcerated compared to 36% of non-Aboriginal offenders. When we control for prior record (crimes against persons) the discrepancy disappears with 40% of Aboriginal and non- Aboriginal offenders being incarcerated when their offence was against an Aboriginal victim.

**Table 16**  
**Incarceration Rates by Victim and Offender Ethnicity**  
**Controlling for Prior Crimes Against Persons**

Victim	Total	Aboriginal Offender		Total	Non-Aboriginal	
	N	Number	Percentage	N	Number	Percentage
Aboriginal	524	212	40%	221	89	40%
Non-Aboriginal	126	42	35%	695	187	27%



Finally when we compare the most severe offences, i.e. those in which a weapon is used, a serious charge is laid and the offender has a prior record for crimes against persons the non-Aboriginal offender is more likely to be incarcerated. However, we should read Table 17 with some caution because in these most severe cases we do run into smaller cell sizes.

**Table 17**  
**Incarceration Rates by Victim and Offender Ethnicity**  
**Controlling for Most Serious Offence**

Victim	Total	Aboriginal Offender		Total	Non-Aboriginal	
	N	Number	Percentage	N	Number	Percentage
Aboriginal	81	38	47%	30	16	53%
Non-Aboriginal	13	3	23%	79	32	40%

The impact of victim's ethnicity upon sentencing suggests that the ethnic bias hypothesis is probably not the best explanation for differential sentencing by offenders ethnicity. It appears that there is a complex interaction between the victim's and the accused's ethnicity and the seriousness of the offence. This gives support to the argument that criminal justice intervention is important for the safety of individuals at risk. The persons being arrested have a number of high risk indicators, particularly, prior record for crimes against persons. Further, the offenders (regardless of their ethnicity) who receive the most severe sentence, incarceration, are those who have assaulted the most vulnerable people, Aboriginal victims.

When we consider duration of incarceration we find no significant difference by ethnicity of the offender. Table 18 indicates that the majority of offenders spend 6 months or less in jail regardless of ethnicity.

**Table 18**  
**Duration of Incarceration by Ethnicity of Accused**

	Aboriginal	Non-Aboriginal
Up to 1 month	35%	35%
2 - 6 months	51%	53%
7 - 18 months	12%	10%
19 months and up	2%	2%

Court ordered treatment is an important component of sentencing which addresses issues of rehabilitation. Two types of treatment orders predominate in Family Violence Court. The first is batterer’s treatment or counseling as ordered by the probation officer. The second most frequent order is alcohol treatment. Table 19 identifies court mandated treatment by ethnicity of offender.

**Table 19**  
**Court Mandated Treatment by Offenders Ethnicity**

	Aboriginal		Non-Aboriginal	
	Number	Percentage	Number	Percentage
Probation Sentence*	1,751		2,893	
Batterers Treatment/ P.O. Ordered Counseling	1,092	62%	1,946	67%
Alcohol Treatment	649	37%	857	30%

\* Includes supervised and non supervised probation.

The predominance of treatment orders in FVC indicates that while the message from the bench is that family violence offences are serious offences with serious consequences there is also a strong commitment to rehabilitation. Our brief discussion of corrections will consider the impact of treatment programmes on offenders to assess how useful they are as a means of rehabilitation.

## Summary

We began our discussion of the court by identifying the conflicting expectations of our community: Women’s advocates, including Aboriginal women, expect serious consequences for crimes of family violence and Aboriginal advocates expect new approaches to justice to reduce the numbers of Aboriginal people in jail. The family violence court has clearly met the expectations of women’s advocates. However, the incarceration rates of Aboriginal offenders does not meet the expectations of Aboriginal advocates, nor does it appear to realize the intent of the amendment of the criminal code on sentencing principles. While, compliance with the new sentencing principles in section 718.2 (e) of the criminal code has emerged slowly with differences clearly identifiable by 1998, the question remains how far can alternate sentencing go in cases of violent offences against vulnerable victims. Again we return to the question of whether we privilege historic or contemporary victims. Our data on the impact of victim’s ethnicity on the incarceration rate of offenders suggest a new and important direction for

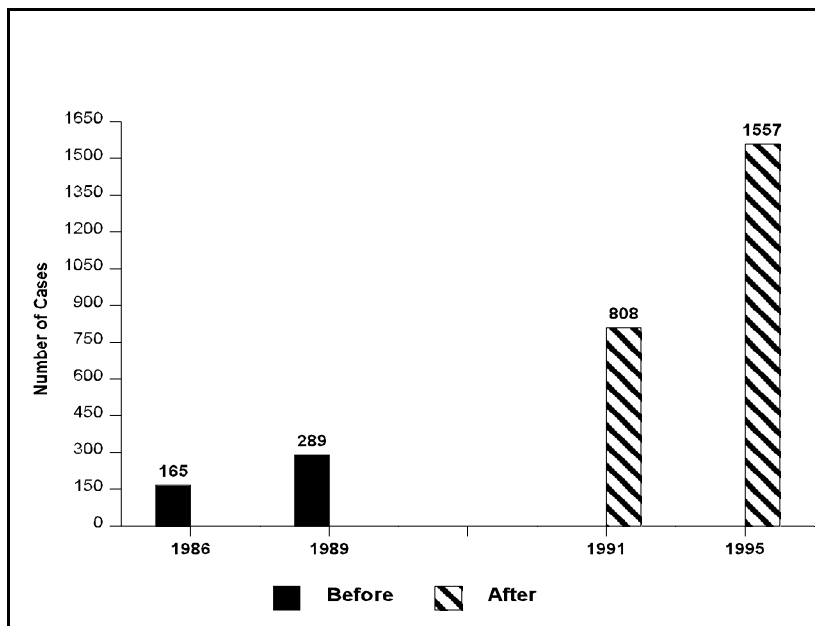
research. As the Supreme court noted in *R. v. Gladue* “that the more serious or violent the crime, the less likely it may be that the sentence will differ as between an Aboriginal and a non-Aboriginal offender” (Campbell 1999:240). As Crown attorney Janice LeMaistre noted, some of the aggravating factors which lead to a recommendation of incarceration, do not necessarily show up in official crime statistics. These factors relate to on-going and escalating patterns of violence with many previous stays of proceedings which do not result in formal records of the serious and violent history of the relationship.

Our courts are called upon to try to find the delicate balance between acknowledging the particular needs and circumstances of the offender and the equally compelling needs and circumstances of the victim. The fact that these competing needs are seldom congruent confounds the process. However, there are areas in which the issues are less complex and the potential for flexibility in the justice system is more easily identifiable. In cases that result in stays of proceedings there is substantial potential for Rehabilitative Remands which will provide the same quality and accessibility to treatment that is currently only available to convicted offenders. In cases of first offences involving less serious charges there is the potential for conditional sentences and court mandated treatment. The analysis of FVC data for 1998 and 1999 should reveal whether the conditional sentence option is being exercised.

**PART 5**  
**CORRECTIONS**

The final component of the criminal justice system is Corrections. Since 1992 Manitoba corrections has undertaken a massive commitment to the provision of treatment for family violence offenders. Prior to 1992 Corrections had some limited treatment programmes, usually initiated by probation officers with a particular interest in treatment (Ursel 1996). However, after the implementation of the FVC the revolution in sentencing resulted in a massive increase of family violence offenders on probation officers' case load.

**Figure 7**  
**Impact of FVC on Winnipeg Probation**  
**Active Case Load of Family Violence Offenders**



Manitoba Corrections responded by initiating a comprehensive training programme for community and institutional correctional officers to substantially increase their treatment capacity. In addition, a special family violence unit in Community Corrections was developed to specialize in the delivery of treatment and the monitoring of family violence offenders sentenced to supervised probation.

As a result of these initiatives Correctional Officers have been trained to run treatment groups in communities throughout the province and in all the provincial correctional institutions. In 1994 the Family Violence Research Centre at the University of Manitoba was commissioned to study the impact of the Short Term Intervention Program (STIP) introduced by Corrections for court mandated domestic violence offenders. The report of this study in 1996 indicated a reduction in recidivism with the smallest reduction being reported for maximum security imprisoned populations and the largest reduction for graduates of the community corrections specialized family violence unit programme (Ursel 1996). These findings are consistent with other studies throughout North America which indicate greater success with individuals who are apprehended earlier in their offence history and do not have a generalized violent history (Dutton 1986; Adams and McCormick 1982; Hart 1988; Currie 1987; Dankwort 1998).

**Table 20**  
**Recidivism Rates of STIP Graduates vs Control Group Offenders**  
**by Site of Programme and Sentence**

<b>Programme Site</b>	<b>Type of Sentence</b>	<b>Control Group Recidivism</b>	<b>STIP Graduate Recidivism</b>	<b>Percentage Reduction in Recidivism</b>
Headingley	Jail	48.6%	39.5%	19%
Milner R.	Jail	48.6%	25.0%	49%
Midland	Probation	28.2%	21.7%	23%
335 Donald	Probation	28.2%	14.0%	51%

In May 2000 Manitoba Corrections commissioned a second study to assess the innovations in treatment introduced since 1992. This study is not yet completed. In addition to these treatment initiatives Headingley Provincial Institution opened a special unit for domestic violence offenders in the fall of 2000. The intent behind this specialization was to provide a unit in which offenders would be in a more focused rehabilitative environment in which the guards and programme personnel were specially trained. This is a very recent initiative with no evaluation to date.

When we review the literature on treatment programmes the evidence suggests cautious optimism. As programmes for offenders expanded throughout North America research evaluation also increased (Browning 1984; Jennings 1987; Schecter 1982). A review of programme evaluation studies by the Canadian Department of Justice concluded:

“Some modest evidence of success of group treatment after six months to one year with ....improvements in the range of 50.7% (for severe violence) and 13% to 19.1% (for all violence) compared to no-treatment and/or arrest only recidivism rates” (Correctional Service of Canada 1989:31).

Research on treatment programmes face the same problems of defining success that we encounter in research on prosecution (Edleson and Eisikovits 1996; Dankwort 1998). For some, who adhere to legal definitions of assault (particularly those assessing court-mandated programmes) a decrease in physical aggression or no subsequent arrest constitute success (Dutton 1986; Ursel 1996). For others in the mental health field who adhere to psycho-medical interventions, positive changes in psychological test scores may be the primary marker of 'successful treatment'. While those who align themselves with women's advocacy groups define success as the total cessation of all controlling behaviour (Dankwort 1994). Despite these definitional debates there seems to be some consensus that programmes for batterers have not been any more or less successful than 'treatment' in related fields such as alcohol and drug abuse (Longabaugh and Lewis 1988; Quinsey et al 1993). Finally, while there is some agreement that men who go through treatment appear to become less violent, it is also true that the active ingredient(s) of such transformations remain unknown (Tolman and J.L. Edelson 1995; Dankwort 1998). In the face of the emergent nature of treatment programmes and the cautious optimism that treatment makes some (yet to be defined) difference the policy of Manitoba Corrections seems very responsible. The programme is characterized by ongoing training, recurrent evaluations and experimentation with different models of treatment delivery. Given the "state of the art" at this point in time this suggests a very responsive and flexible approach to rehabilitation.

It is unfortunate that the existing evaluations of treatment have not compared "success" rates of Aboriginal and non-Aboriginal participants. However, it is important to note that Manitoba Corrections has extensive capacity to provide culturally appropriate treatment programmes. They have Aboriginal probation officers on staff and they contract extensively with Aboriginal agencies and service providers to provide treatment programmes specific to the needs of Aboriginal offenders. It will be important in the current evaluation of the Manitoba Corrections treatment programmes to undertake a comparative analysis of their impact on Aboriginal and non-Aboriginal offenders.

## **PART 6**

### **RECOMMENDATIONS**

#### **Part 1 Research and Evaluation**

Given the complex and recurrent nature of family violence it is important to encourage research and evaluation that:

- 1.1 includes analysis by ethnicity of accused and ethnicity of the victim
- 1.2 adopts realistic and appropriate outcome measures that are sensitive to the “process of empowerment” rather than fixed or single outcome measures such as conviction rates

#### **Part 2 Rehabilitative Remands**

Given the high stay rates and the frequent reluctance of victims to assist in prosecution rehabilitative remands should be considered as a preferred strategy for cases that will not proceed to court. Factors to consider in the pursuit of a Rehabilitative Remand Programme are:

- 2.1 Development of clear protocols for eligibility
- 2.2 Funding will need to be provided to ensure treatment of equal quality and accessibility to the treatment available to convicted offenders. As a prosecution initiated programme the funding should be made available through the Department of Justice to ensure resources keep pace with demand.
- 2.3 Priority should be given to the provision of this programme to Aboriginal accused.
- 2.4 Funding for culturally specific treatment programmes should be a priority
- 2.5 Special consideration should be given to accessibility to bail variations to assist in child care in cases of Rehabilitative Remands.

### **Part 3 Dual Arrests**

Given the difficulties experienced by families and the criminal justice system in cases of dual arrest the following policies should be considered:

- 3.1 Special training for police regarding appropriate action in cases of counter allegations
- 3.2 Institute a policy at the police level to direct officers to submit particulars to the crown attorney for opinion when a counter allegations have been made.
- 3.3 Revisit the Women's Advocacy Program's policy restricting their work to victims and excluding women who have been counter charged. Consider their role in providing assessment reports to the crown attorney in such cases and providing safety planning for such women.
- 3.4 Crown Attorneys should fast track all counter charge cases.
- 3.5 Crown Attorneys should consider the appropriateness of Rehabilitative Remands in such cases if they meet eligibility protocol.

### **Part 4 Family Violence Treatment and Support Programmes**

Given the over-representation of Aboriginal victims and accused in the family violence court

- 4.1 efforts should be made to expand culturally appropriate, Aboriginal specific, treatment and support programmes for all family members.

### **Part 5 Pre Arrest Intervention Strategies**

Given that many low income families do not know where to call for help other than the police, consideration should be given to:

- 5.1 Development of an Aboriginal Men's Crisis Centre with a 24 hour response capacity within a larger Aboriginal Agency providing a range of family violence programming.
- 5.2 Support for the Winnipeg Police Services Early Intervention Pilot Project if successful at the end of the 3 year pilot.



## **Part 6 Domestic Violence and Stalking Prevention, Protection and Compensation Act**

Given the interest on the part of Aboriginal people to reduce their numbers in the criminal justice system, consideration should be given to increasing accessibility to civil protection orders through:

- 6.1 Increasing the number of magistrates available to process requests for these orders.
- 6.2 Recruit Aboriginal people for these positions
- 6.3 Support an internship programme for shelter staff at magistrates offices. An internship programme of two weeks would provide shelter staff with greater knowledge of the legislation and its application so they will be more effective advocates for their clients.

## REFERENCES

- Adams, D and A. McCormick. (1982) "Men Unlearning Violence: A Group Approach" in M. Roy (editor) *The Abusive Partner: An Analysis of Domestic Battering*, 170-197. New York: VanNostrand Reinhold.
- "Application of s. 718.2(e) of the Criminal Code: R. v. Gladue" in *Justice as Healing*, Vol. 4, No. 2 (Summer 1999).
- Austin, Juliet B and Juergen Dankwort. (1999) "Standards for Batterer Programs: A Review and Analysis." *Journal of Interpersonal Violence*, 14 (2), 152-167.
- Belknap, J. (1995). Law enforcement officers' attitudes about the appropriate responses to woman battering. *International Review of Victimology* 4:47-62.
- Berk, R.A., S.F. Berk, and D. Rauma. (1980). Brining the cop back in: A study of efforts to make the criminal justice system more responsive to incidents of family violence. *Social Science Research* 9:193-213.
- Black, Donald, and Albert J. Reiss, Jr. (1967). Patterns of behavior in police and citizen transactions. In *Studies of crime and law enforcement in major metropolitan areas*. President's Commission on Law Enforcement and the Administration of Justice, field surveys III, vol. 2 Washington, D.C.: U.S. government Printing Office.
- Bonta, James, Jennifer Rooney, and Suzanne Wallace-Capretta. (1998) "An Evaluation of the Restorative Resolutions Project." Solicitor General Canada: 1998-05. [on-line at: <http://www.sgc.gc.ca/epub/corr/e199810b/e199810b.htm>]
- Browning, J. (1984) *Stopping The Violence: Canadian Programmes for Assaultive Men*, Ottawa : National Clearinghouse on Family Violence, Health and Welfare Canada.
- Buel, S.M. (1988). Mandatory arrest for domestic violence. *Harvard Women's Law Journal* 11:213-226.
- Buller, Ed and Sharon McCue. (1996). *Examining Aboriginal Corrections in Canada*, Ministry of the Solicitor General, 1996 Ottawa, Ontario  
<http://www.sgc.gc.ca/epub/abocor/e199614/e199614.htm>
- Buzawa, Eve S. and Thomas Austin. "Determining Police Response to Domestic Violence Victims." *Legal Interventions in Family Violence: Research Findings and Policy Implications*: July 1998, U.S. Dept. of Justice. (NCJ 171666) [on-line at: <http://www.ncjrs.org/pdffiles/171666.pdf>]
- Buzawa, E., and C. Buzawa. (1996). *Domestic violence: The criminal justice response*. Thousand Oaks, California: Sage Publications.

- Campbell, Mary E. "Case Comment: R. v. Gladue." (1999) 4 *Can. Crim. L.R.*, pp. 237-241.
- Canadian Centre for Justice Statistics, - Family Violence in Canada: A Statistical Profile  
Statistics Canada, Ottawa Ontario 2000 No. 85-224-XIE au catalogue
- Comack, E., Vanessa Chopyk and Linda Wood. (2000). Mean Streets? The Social Locations, Gender Dynamics and Patterns of Violent Crime in Winnipeg, Canadian Centre for Policy Alternatives, Winnipeg, Manitoba.
- Correctional Service Canada. (1989) Research Report: Family Violence Review: Prevention and Treatment of Abusive Behaviour. Prepared by Appleford Associates for the Research Branch, Government of Canada (No. R-03), March.
- Corsilles, A. (1994). No-drop cases in the prosecution of domestic violence cases: Guarantee to action or dangerous solution? *Fordham Law Review* 63 (3):853-881.
- Courchene, Eileen Joyce. (1990). Aboriginal Women's Perspective of the Justice System in Manitoba. The Public Inquiry into the Administration of Justice and Aboriginal People.
- Currie, A. and George Kiefl. (1994). "*Ethnocultural Groups and the Justice System in Canada: A Review of the Issues.*" Department of Justice Canada : WD1994-5e.
- Currie, D. (1987) *The Abusive Husband: An Approach to Intervention*, Toronto, Clark Institute of Psychiatry.
- Dankwort, J. (1994) "Counsellors' Accounts of Wife Abuse and Their Practice" unpublished doctoral dissertation, School of Social Work, University of Montreal.
- Davis, Robert C., Barbara E. Smith, et al. (1998). "The Deterrent Effect of Prosecuting Domestic Violence Misdemeanors." *Crime & Delinquency*, 44 (3), 434-443.
- Dobash, R.E., and R. Dobash. (1979). *Violence against wives*. New York: Free Press.
- Dolon, R., J. Hendricks, and S. Meagher. (1986). Police practices and attitudes toward domestic violence. *Journal of Police Science and Administration* 14 (3):187-192.
- Dutton, D.G. (1995a). *The domestic assault of women*. 2d ed. Boston: Allyn and Bacon.
- (1986). "The Outcome of Court Mandated Treatment for Wife Assault: a Quasi-Experimental Evaluation", *Violence and Victims*, 1 (3):163-175.
- Edleson, J.L. and Z.C. Eisikovits (eds 1996) "Future Interventions With Battered Women and Their Families" Thousand Oaks, CA: Sage.

- Ericson, R.V. and P.M. Baranek. (1982). *The Ordering of Justice: A Study of Accused Persons as Dependants in the Criminal Process*. Toronto: University of Toronto Press.
- Feder, Lynette. (1998). "Police Handling of Domestic and Non-Domestic Assault Calls: Is There a Case for Discrimination?" *Crime & Delinquency*, 44 (2), 335-350.
- Ferraro, K.J. (1989). Policing woman battering. *Social Problems* 36 (1):61-74.
- Ferraro, K.J., and L. Pope. (1993). Irreconcilable differences: Battered women, police, and the law. In *Legal responses to wife assault: Current trends and evaluation*, edited by N.Z. Hilton. Newbury Park, California: Sage Publications.
- Field, M., and H. Field. (1973). Marital violence and the criminal justice process: Neither justice nor peace. *Social Service Review* 42 (2):221-240.
- Fields, M. (1978). Wife beating: government intervention, policies, and practices. In *Battered women: Issues of public policy*. Washington, D.C.: U.S. Commission on civil rights.
- Finn, Peter and Sarah Colson. (1998). "Civil Protection Orders: Legislation, Current Court Practice, and Enforcement." *Legal Interventions in Family Violence: Research Findings and Policy Implications* : July 1998, U.S. Dept. of Justice. (NCJ 171666) [on-line at: <http://www.ncjrs.org/pdffiles/171666.pdf>]
- Ford, D.A. (1991). Prosecution as a victim power source: A note on empowering women in their violent conjugal relationships. *Law & Society Review* 25 (2):313-334.
- Ford, D.A. and M.J. Regoli. (1993). *The Indianapolis Domestic Violence Prosecution Experiment*. Final Report, NIJ Grant no. 86-IJ-CX-0012. Indianapolis: Indiana University, and Washington, D.C.: U.S. Department of Justice, National Institute of Justice, and U.S. Department of Health and Human Services, National Institute of Mental Health.
- Ford, David A. and Mary Jean Regoli. (1998). "The Indianapolis Domestic Violence Prosecution Experiment." *Legal Interventions in Family Violence: Research Findings and Policy Implications* : July 1998, U.S. Dept. of Justice. (NCJ 171666) [on-line at: <http://www.ncjrs.org/pdffiles/171666.pdf>]
- Frank, Sharlene. (1992). *Family Violence in Aboriginal Communities*. British Columbia: Minister of Women's Equality.
- Frank, S. (1996). "A Needs Assessment for an Aboriginal Women's Transition House." Vancouver: Feminist Research, Education, Development and Action (FREDA). (30 pages)

- Friday, P., S. Metzgar, and D. Walters. (1991). Policing domestic violence: Perceptions, experience, and reality. *Criminal Justice Review* 16 (2):198-213.
- Genova, L.R. (1981). "Plea Bargaining: In the End , Who Really Benefits?" *Canadian Criminology Forum*, 4:30-44.
- Goldkamp, John S. with Doris Weiland, Mark Collins, and Michael White. (1998). "The Role of Drug and Alcohol Abuse in Domestic Violence and Its Treatment: Dade County's Domestic Violence Court Experiment." *Legal Interventions in Family Violence: Research Findings and Policy Implications* : July 1998, U.S. Dept. of Justice. (NCJ 171666) [on-line at: <http://www.ncjrs.org/pdffiles/171666.pdf>]
- Gondolf, E.W. (1999). A comparison of four batterer intervention systems: Do court referral program length, and services matter? *Journal of Interpersonal Violence* 14:41-61.
- Gondolf, E.W., K. Yllo, and J. Campbell. (1997). Collaboration between researchers and advocates. In *Out of the darkness: Contemporary perspectives on family violence*, edited by G.K. Kantor and J.L. Jasinski. Thousand Oaks, California: Sage Publications.
- Goolkasian, G. (1986a). *Confronting domestic violence: A guide for criminal justice agencies*. Issues and Practices, NCJ 101680. Washington, D.C.: U.S. Department of Justice, National Institute of Justice.
- Hamilton, A. C. and C. M. Sinclair. (1991). The Inquiry and the Issues, Report of the Aboriginal Justice Inquiry of Manitoba: The Justice System and Aboriginal People vol. 1. Winnipeg, Manitoba: Queen's Printer. "Chapter 13 - Aboriginal Women."
- Harrell, Adele and Barbara Smith. (1998). "Effects of Restraining Orders on Domestic Violence Victims." *Legal Interventions in Family Violence: Research Findings and Policy Implications* : July 1998, U.S. Dept. of Justice. (NCJ 171666) [on-line at: <http://www.ncjrs.org/pdffiles/171666.pdf>]
- Harrell, A., B. Smith, and L. Newmark. (1993). *Court processing and the effects of restraining orders for domestic violence victims*. Washington, D.C.: Urban Institute.
- Harrell, Adele. (1998). "The Impact of Court-Ordered Treatment for Domestic Violence Offenders." *Legal Interventions in Family Violence: Research Findings and Policy Implications* : July 1998, U.S. Dept. of Justice. (NCJ 171666) [on-line at: <http://www.ncjrs.org/pdffiles/171666.pdf>]
- Hart, B. (1988) "Safety for Women: Monitoring Batterers' Programs" Harrisburg, PA. Pennsylvania Coalition Against Domestic Violence.

- Hart, B.J., Esq. (1989). "Domestic Violence: A Model Protocol for Police Response." January 1989: Pennsylvania Attorney General's Family Violence Task Force. [on-line at: <http://www.mincava.umn.edu/hart/modelpo.htm>]
- Hart, Barbara J., Esq. (1991) "The Legal Road to Freedom." Available [on-line at: <http://www.mincava.umn.edu/hart/legalro.htm>]
- Healey, Kerry Murphy and Christine Smith. (1998). "Batterer Programs: What Criminal Justice Agencies Need to Know." US Dept. of Justice. NIJ 171683. [on-line at: <http://www.ncjrs.org/textfiles/171683.txt>]
- Healey, Kerry, Christine Smith, and Chris O'Sullivan. (1998). "Batterer Intervention: Program Approaches and Criminal Justice Strategies." U.S. Dept. of Justice, NIJ 168638. [on-line at: <http://www.ncjrs.org/pdffiles/168638.pdf>]
- Homant, R.J., and D.B. Kennedy. (1985). Police perceptions of spouse abuse: A comparison of male and female officers. *Journal of Criminal Justice* 13 (1):29-47.
- Hudson, Barbara. (1998). "Restorative Justice: The Challenge of Sexual and Racial Violence." *Journal of Law and Society*, 25 (2), 237-56.
- Jaffe, Peter et al. (1991). Wife Assault as a Crime: The Perspectives of Victims and Police Officers on a Charging Policy in London, Ontario, from 1980-1990. London Family Court Clinic Inc. Department of Justice Canada, Working Document [WD 1991-13A], April 1991.
- Jaffe, Peter and Burris, Carol. (1984). An Integrated Response to Wife Assault: A Community Model Ottawa Ministry of the Solicitor General.
- Jennings, J.L. (1987) "History and Issues in the Treatment of Battering Men: A Case for Unstructured Group Therapy" *Journal of Family Violence*, 2 (3): 193-211.
- Johnson, Holly. (1996). *Dangerous Domains: Violence Against Women in Canada* Nelson Publishers, Toronto.
- Johnson, I.M., and R.T. Sigler. (1995). Community attitudes: A study of definitions and punishment of spouse abusers and child abusers. *Journal of Criminal Justice* 23 (5):477-487.
- Johnson, I.M., R.T. Sigler, and J.E. Crowley. (1994). Domestic violence: A comparative study of perceptions and attitudes toward domestic abuse cases among social service and criminal justice professionals. *Journal of Criminal Justice* 22 (3):237-248.

- Jones, Renee Fossett. (1990). *Alternatives to Incarceration: Literature Review and Annotated Bibliography*. The Public Inquiry into the Administration of Justice and Aboriginal People.
- Keilitz, Susan, Paula Hannaford, and Hillery S. Efke. (1998). "The Effectiveness of Civil Protection Orders." *Legal Interventions in Family Violence: Research Findings and Policy Implications* : July 1998, U.S. Dept. of Justice. (NCJ 171666) [on-line at: <http://www.ncjrs.org/pdffiles/171666.pdf>]
- LaPrairie, Carol. (1996). "Examining Aboriginal Corrections in Canada." Solicitor General Canada : APC 14 CA.
- (1999). "The impact of Aboriginal justice research on policy: A marginal past and an even more uncertain future." *Canadian Journal of Criminology*, 1999, (41) 2, 249-260.
- LaRocque, Emma. (1995). "Violence in Aboriginal Communities" in *Wife Assault and the Canadian Criminal Justice System*, eds. Valverde, M., MacLeod, L. and Johnson, K. Toronto, Centre of Criminology, University of Toronto.
- Lawrentz, F., J.F. Lembo, and T. Schade. (1988). Time series analysis of the effect of a domestic violence directive on the number of arrests per day. *Journal of Criminal Justice* 16 (6):493-498.
- Legal Updates - The Law Connection. [on-line at: [http://www.educ.sfu.ca/cels/fed\\_leg1.html](http://www.educ.sfu.ca/cels/fed_leg1.html) November 5, 2000]
- Lerman, L.G. (1981). *Prosecution for spouse abuse: Innovations in criminal justice response*. Washington, D.C.: Center for Women Policy Studies.
- Lerman, L.G. (1992). The decontextualization of domestic violence. *Journal of Criminal Law and Criminology* 83 (1):217-240.
- Llewellyn, Jennifer J. and Robert Howse. "Restorative Justice: A Conceptual Framework." Law Commission of Canada. [on-line at: <http://www.cdc.gc.ca/en/papers/howse.html#top>]
- Longabaugh, R. and D. Lewis. (1988) "Key Issues in Treatment Outcome Studies" *Alcohol Health and Research World*, 12(3): 168-175.
- Lucashenko, Melissa. (1996). "Violence against Indigenous Women: Public and Private Dimensions." *Violence Against Women*, 1996, (2), 4, 378-390.
- MacLeod, L. (1987). *Battered But Not Beaten: Preventing Wife Battering in Canada* Ottawa, Canadian Advisory Council on the Status of Women.



- (1989). *Wife Battering and the Web of Hope: Progress, Dilemmas and Visions of Prevention*, Ottawa, National Clearing House on Family Violence, Health and Welfare Canada.
- Martin, M.E. (1997). Double your trouble: Dual arrest in family violence. *Journal of Family Violence* 12 (2):139-157.
- McGillivray, Anne and Brenda Comaskey. (1996). "Intimate Violence, Aboriginal Women and Justice System Response: A Winnipeg Study." July: RESOLVE.
- McGillivray, Anne, and Joanne Parisienne. (1997). Intimate Violence, Aboriginal Women and Justice System Response: An Annotated Bibliography. June: RESOLVE.
- McIvor, Sharon and Teressa Nahanee. (1998). "Aboriginal Women: Invisible Victims of Violence" In *Unsettling Truths* - ( eds) Bonneycastle, K. and George Rigakos, Vancouver, Collective Press.
- McLeod, L and Picard, C. (1989). *Towards a More Effective Criminal Justice Response to Wife Assault: Exploring the Limits and Potential of Effective Intervention*, Ottawa Dept. of Justice.
- McLeod, M. (1983). Victim non-cooperation in the prosecution of domestic violence assault: A research note. *Criminology* 21 (3):395-416.
- McNaught, Andrew. (1998). "Preventing Domestic Violence: Improved Court Protection in Other Provinces." Ontario Legislative Library, Current Issue Paper 193, May 1998. ISSN 1206-1514. (on-line at: <http://www.ontla.on.ca/library/c193tx.htm>)
- Mickish, J., and K. Schoen. (1988). Domestic violence: Developing and maintaining an effective policy. *Prosecutor* 21 (3):15-20.
- Mignon, S.I., and W.M. Holmes. (1995). Police response to mandatory arrest laws. *Crime & Delinquency* 41 (4):430-442.
- Mills, Linda. (1996). "Empowering Battered Women Transnationally: The Case for Postmodern Interventions." *Social Work*, 41 (3), 261-267.
- Native Women's Association of Canada. (1991). "Voices of Aboriginal Women: Aboriginal Women Speak Out About Violence", Canadian Council on Social Development , Ottawa.
- Nuffield, Joan. (1998). "Issues in Urban Corrections for Aboriginal People: Report on a Focus Group and an Overview of the Literature and Experience." The Ministry of the Solicitor General of Canada : APC 17. [on-line at: <http://www.sgc.gc.ca/epub/abocor/e199803/e199803.htm>]



- Ontario Native Women's Association. (1989). *Breaking Free: A Proposal for Change to Aboriginal Family Violence*, Thunder Bay.
- Owens-Manley, Judith. (1999). "Battered Women and Their Children: A Public Policy Response." *Journal of Women & Social Work*, 14 (4), 439-460.
- Pedlar, Dorothy. (1991). *Domestic Violence: Review into the Administration of Justice in Manitoba*, Queens Printer, Winnipeg, Manitoba.
- Pringle, Leslie, Steven Skurka, and Elsa Renzella. (2000). "Incarceration Without Jail: Canada Undertakes a Radical Sentencing Reform" in *The Champion*, June. [on-line at: <http://www.crimlaw.org/defbrief111.html>]
- Proulx, J. and Sharon Perrault. (2000). *No Place For Violence: Canadian Aboriginal Alternatives*, Fernwood Publishing, Halifax.
- Quinsey, V., G. Harris, M. Rice, and M. Lalumiere. (1993) "Assessing Treatment Efficacy in Outcome Studies of Sex Offenders" *Journal of Interpersonal Violence*, 8 (4): 512-523.
- Schechter, S. (1982) *Women and Male Violence: The Visions and Struggles of the Battered Women's Movement*; Boston, South End Press.
- Schmidt, J.D., and L.W. Sherman. (1993). Does arrest deter domestic violence: *American Behavioral Scientist* 36:601-609.
- Schmidt, Janell D. and Lawrence W. Sherman. (1998). "Does Arrest Deter Domestic Violence?" *Legal Interventions in Family Violence: Research Findings and Policy Implications* : July 1998, U.S. Dept. of Justice. (NCJ 171666) [on-line at: <http://www.ncjrs.org/pdffiles/171666.pdf>]
- Sherman, L.W., and R.A. Berk. (1984a). *The Minneapolis Domestic Violence Experiment*. Washington, D.C.: Police Foundation.
- Sherman, L.W., and R.A. Berk. (1984b). The specific deterrent effects of arrest for domestic assault. *American Sociological Review* 49 (2):261-272. [on-line at: <http://www.jstor.org/>]
- Sherman, L.W., and E.G. Cohn. (1989). The impact of research on legal policy: The Minneapolis Domestic Violence Experiment. *Law & Society Review* 23 (1):117-144.
- Sherman, L.W., and R.A. Berk. (1984a). *The Minneapolis Domestic Violence Experiment*. Washington, D.C.: Police Foundation.
- Sherman, L.W., and R.A. Berk. (1984b). The specific deterrent effects of arrest for domestic assault. *American Sociological Review* 49 (2):261-272. [on-line at: <http://www.jstor.org/>]

- Sherman, Lawrence, W., Douglas A. Smith, Janell D. Schmidt, and Dennis P. Rogan. (1992). "Crime, Punishment, and Stake in Conformity: Legal and Informal Control of Domestic Violence." *American Sociological Review*, 57 (5). 680-690. [on-line at: <http://www.jstor.org/>]
- Snider, Lauren. (1998). "Struggles for Justice: Criminalization and Alternatives" In *Unsettling Truths* - (eds) Bonneycastle, K and George Rigakos, Vancouver, Collective Press.
- Snyder, D., and N. Scheer. (1981). Predicting disposition following brief resident at a shelter for battered women. *American Journal of Community Psychology* 9 (5):559-566.
- Solomon, P.H. (1983). *Criminal Justice Policy: From Research to Reform Toronto*, Butterworths.
- Stalans, Loretta J. (1996). "Family Harmony or Individual Protection?" *American Behavioral Scientist*, 39(4), 433-449.
- Stanko, E.A. (1982). Would you believe this woman? Prosecutorial screening for "credible" witnesses and a problem of justice. In *Judge, lawyer, victim, thief: Women, gender roles, and criminal justice*, edited by N. Rafter and E. Stanko. Boston: Northeastern University Press.
- Stark, E. (1993). Mandatory arrest of batterers: A reply to its critics. *American Behavioral Scientist* 36 (5):6651-680.
- Stark, Evan. (1998). "Mandatory Arrest of Batterers: A Reply to Its Critics." *Legal Interventions in Family Violence: Research Findings and Policy Implications* : July 1998, U.S. Dept. of Justice. (NCJ 171666) [on-line at : <http://www.ncjrs.org/pdffiles/171666.pdf>]
- Stark, R. and J. McEvoy. (1970). Middle class violence. *Psychology Today* 4 (6):107-112.
- Strange, C. (1995). "Historical Perspective on Wife Assault" in *Wife Assault and the Canadian Criminal Justice System*, eds. Valverde, M., MacLeod, L. and Johnson, K Toronto, Centre of Criminology, University of Toronto.
- Sullivan, C.M., J. Basta, C. Tan, and W.S. Davidson II. (1992). After the crisis: A needs assessment of women leaving a domestic violence shelter. *Violence and Victims* 7 (3):267-275.
- Tanovich, David M. (1999-2000). *Annual Review of Criminal Law*.
- Thistlewaite, Amy, John Wooldredge, et al. (1998). "Severity of Dispositions and Domestic Violence Recidivism." *Crime & Delinquency*, 1998, 44(3), 388-399.

- Tolman, R.M. and J.L. Edleson. (1995) "Intervention for Men Who Batter: A Review of Research" in S.R. Stith and M.A. Straus, eds., *Understanding Partner Violence: Prevalence, Causes, Consequences and Solutions*, 262-273, Minneapolis: National Council of Family Relations.
- Travis, Jeremy. (1996). "Revictimization: Reducing the Heat on Hot Victims." US Dept. of Justice, NIJ Research in Action. NIJ 162951. [on-line at: <http://www.ncjrs.org/txtfiles/revictim.txt>]
- U.S. Dept. of Justice. (2000). First Response to Victims of Crime. Office for Victims of Crime: NCJ 176971. [on-line at: <http://www.ojp.usdoj.gov/ovc/infores/firstrep.pdf>]
- Ursel, J. (1992). "A Progress Report on the Family Violence Court in Winnipeg." Manitoba Law Journal Vol. 2.
- (1996). Recidivism Rates Among Wife Abuse Offenders mandated to the Manitoba Corrections Short Term Intervention project (STIP) - submitted to Manitoba Corrections, February.
- (1998). "Interim Report of the Lavoie Inquiry Implementation Committee" submitted to the Department of Justice and Family Services, Manitoba. March.
- (1998). "Final Report on the Lavoie Inquiry Implementation Committee" submitted to the Department of Justice and Family Services, Manitoba. November.
- (1998). "Mandatory Charging: The Manitoba Model" in G. S. Rigakos and K.D. Bonneycastle eds. Unsettling Truths: Battered Women, Policy, Politics, and Contemporary Canadian Research, Vancouver Collective Press, Vancouver.
- (2000). "Winnipeg Family Violence Court Report" in Family Violence in Canada: A Statistical Profile 2000, Canadian Centre for Justice Statistics, Chapter 6.1 July 2000, Statistics Canada.
- Ursel, J. and Steve Brickey. (1996). "The Potential of Legal Reform Reconsidered: A Case Study of the Manitoba Zero Tolerance Policy on Family Violence" in Post Critical Criminology ed. Thomas O'Reilly-Fleming, Prentice Hall Scarborough, Ontario.
- Van der Put, Daphne. (1990). Literature Review on Aboriginal Victims of Crime. The Public Inquiry into the Administration of Justice and Aboriginal People.
- Verdun-Jones, S.N. and A.J. Hatch. (1985). Plea Bargaining and Sentencing in Canada Ottawa, The Canadian Sentencing Commission.
- Worden, Alissa Pollitz. (2000). *The Changing Boundaries of the Criminal Justice System: Redefining the Problem and the Response in Domestic Violence* in

Boundary Changes in Criminal Justice Organizations. [on-line at:  
[Http://www.ncjrs.org/criminal\\_justice2000/vol\\_2/02gs.pdf](http://www.ncjrs.org/criminal_justice2000/vol_2/02gs.pdf)]

Worden, A. (2000). Models of community coordination in partner violence cases. Final report (draft), grant no. NIJ 95-WT-NX-0006, submitted to the U.S. Department of Justice, National Institute of Justice, February.

Worden, A.P., and S. J. McLean. (1998). The victim's role in pre-trial decisions: Seeking warrants and protective orders in partner violence cases. Paper presented at the 1998 Annual Meeting of the American Society of Criminology, 15 November, Washington, D.C.

Zorza, J. (1992). The criminal law of misdemeanor domestic violence, 1970-1990. *Journal of Criminal Law and Criminology* 83 (1):46-72.

Zorza, Joan. (1998). "Must We Stop Arresting Batterers?: Analysis and Policy Implications of New Police Domestic Violence Studies." *Legal Interventions in Family Violence: Research Findings and Policy Implications* : July 1998, U.S. Dept. of Justice. (NCJ 171666) [on-line at:  
<http://www.ncjrs.org/pdffiles/171666.pdf>]

**APPENDIX A**

**Crown Attorney's Policy on Domestic Violence**