
THE JUSTICE RESPONSE TO DOMESTIC VIOLENCE: A LITERATURE REVIEW



by

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Updated November 2008

Acknowledgements

This literature review was the product of two major research projects. The first is the “Evaluation of the Justice and Community Response to Domestic Violence across the Prairie Provinces” funded by the Social Sciences and Humanities Research Council (SSHRC) Community University Research Alliance (CURA) project (Leslie Tutty and Jane Ursel, co-principle investigators). The Alberta Law Foundation also supported the project financially; to both organizations, we extend our sincere appreciation.

The project compared different models of specialized domestic violence courts in Alberta, Saskatchewan and Manitoba. The list of co-investigators for the CURA project is long but deserves mention; without the team of academics and community members the research would not have been possible. Thanks to Karen Busby (Faculty of Law, U of Manitoba); Fiona Douglas (U of Regina); David Este (U of Calgary.); Carmen Gill (U of R); Jennifer Koshan (Faculty of Law, U of C); Sarla Sethi (Faculty of Nursing, U of C); Wilfreda (Billie) Thurston (Community Health Sciences, U of C); Elizabeth Thomlinson (Faculty of Nursing, U of C); Lee Tunstall (U of C); Wanda Wieggers (Faculty of Law, U of S) and Stephen Wormith (U of S).

Access to the provincial justice data was facilitated by Deputy Minister Bruce McFarland (Manitoba), Francis Remedios (Alberta Justice) and Ms. Frankie Jordan (Saskatchewan Justice). The community agency collaborators included Rod McKendrick (Saskatchewan Justice); Robbie Babins-Wagner (Calgary Counselling); Karen Walroth (Action Committee Against Violence); and Irene Hoffart and Michele Clarke (Synergy Research). Lastly, although numerous research assistants assisted with this project Christine Hagyard and Cheryl Laurie of the University of Manitoba and Kendra Nixon of the University of Calgary, took leadership in several key aspects of the project.

The second project, “The Evaluation of the Calgary Domestic Violence Trial Court & Monitoring the HomeFront First Appearance Court,” is funded by the National Crime Prevention Centre of Public Safety Canada and the Alberta Law Foundation. We gratefully acknowledge their financial and informational support. The project continues the data collection begun by the CURA project focusing on the Calgary courts.

The Evaluation Team for the current project consists of Sheena Cunningham (Crown Prosecutor’s Office Calgary), Shawne Young (Chief Probation Officer, Calgary District Probation), Robbie Babins-Wagner (CEO, Calgary Counselling Centre), Carolyn Goad and Arlis Liska (YWCA of Calgary Sherriff King Home), Dr. Sue Ludwig (Director, Forensic Services and Initiatives, Alberta Mental Health Board) Leslie Buckle (Senior Evaluation Analyst, National Crime Prevention Centre), and Kevin McNichol (Executive Director, HomeFront). Thanks so much to the team for their time and contributions to the project.

The current literature review was originally written for the SSHRC CURA Final report. As additional funding has been forthcoming, the literature has been updated yearly.

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Chapter One: Introduction to the Justice Response to Domestic Violence

By Leslie M. Tutty and E. Jane Ursel

In the past, assaults between partners were seen as private matters and treated differently from similar assaults committed by strangers (Fusco, 1989). Today, however, the criminal justice system intervenes in a substantial proportion of cases of domestic violence in Canada and the United States (Tsai, 2000; Ursel 2002; Ursel, Tutty & leMaistre, 2008). This has been the result of broad policy changes across North America over the past two decades. These policy changes have occurred at all levels of the justice system including the police, prosecutions, courts and corrections.

Entry into the criminal justice system is usually victim initiated, typically a telephone call to the police during a crisis. Yet, according to the 2004 General Social Survey, relatively high proportions of victims choose not to involve the police: only 37% of women victims and 17% of male victims made such contact (Ogrodnik, 2006). One of the frequently offered reasons for low rates of contacting the police is the view that the police and the criminal justice system are not helpful to victims. Over time, critiques of the justice system response to domestic violence have resulted in a number of policy and practice changes which put greater emphasis on the safety of victims and holding offenders accountable for their assaults. One of the consequences of these changes has been the introduction of specialized criminal courts, the subject of this section of the book.

This chapter serves introduces the criminal justice system response to domestic violence. We begin with a brief discussion of the face of domestic violence in Canada, how the criminal justice system works, how to understand the terminology used by our authors and what to look for in assessing different models of court specialization. We review the various rationale for developing specialized domestic violence courts and different models of specialization that exist in Canada.

1.1 Domestic Violence in Canada

The serious nature of intimate partner violence and the harm to women and their children has been acknowledged in numerous documents (Statistics Canada, 2005; Tutty & Goard, 2002). The costs to society for charging abusive partners and providing treatment in the hope of stopping domestic violence are substantial (Bowlus, McKenna, Day & Wright, 2003; Hankivsky & Greaves, 1995; Healey, Smith, & O'Sullivan 1998).

The 2004 General Social Survey on Victimization (Statistics Canada, 2005) estimated that 7% of Canadian women and 6% of men are the victims of an act of violence from an intimate partner over a five-year period. While the self-reported rates of abuse appear to be equal, abuse against women by male partners occurs more often and tends to result in more serious consequences, such as fear of death. In this national study, 44% of women reported being injured, compared to 19 % of men: 13% versus 2% sought medical help. Women were almost twice as likely as men to report having been beaten (27% versus 15%), and three times more likely to report having been choked (25% versus 8%). Perhaps most informative is that women fear their partners' violence to a significantly greater extent: 34% of women compared to 10% of men admitted being afraid for their lives (Statistics Canada, 2005a). Nevertheless, while men are the primary perpetrators of serious violence against women partners (Johnson,

2006), women can both physically and emotionally abuse male partners and about 10% of arrests for spousal assault are against women as the sole perpetrator.

Further, lesbians and gay men can be assaulted by their intimate partners. The Canadian 2004 General Social Survey on Victimization reported that the rate of spousal violence among gays and lesbians was twice that of heterosexuals (15% as compared to 7%). Notably, however, while the rates of violence were committed against individuals who self-identified as gay or lesbian, the gender of the perpetrator was not clarified (Statistics Canada, 2005).

The ultimate act of violence for abused women is the risk of them being murdered by their partners. The spousal homicide rates for Aboriginal women are eight times the rate for non-Aboriginal women (Statistics Canada Homicide Survey, cited in Johnson, 2006).

While spousal murders are rare, they typically occur in the context of long-standing domestic violence. According to Beattie's (2005) analysis of 30 years of data from Canada's Homicide Survey, one in five solved homicides involve one partner murdering the other, whether married, common-law or boyfriends, current or ex-partners. Furthermore, over the past 30 years, Canadian women are four to five times more likely to be the victims of a spousal homicide than are men. When considering the pattern of spousal homicides-suicides, over half (57%) of Canada's familial homicide-suicides involved spouses, the majority of which were committed by males (97%) (Aston & Pottie-Bunge, 2005).

1.2 The Institutional Response to Intimate Partner Violence

Since Canadian society acknowledged that domestic violence is a serious social issue, a number of institutions have created policies or special services to more adequately address the problem. This section describes common institutional responses, including the development of shelters for abused women and making it easier to access health, and child welfare services.

Emergency shelters or transition houses are the one institutional response that developed exclusively to address the safety needs of abused women. A little over 30 years ago, Canada had no shelters specific to woman abuse. Today, the latest Transition House Survey, conducted in 2005-2006 by Statistics Canada (Taylor-Butts, 2007), was sent to 553 shelters known to provide residential services for abused women. Canada's shelters are well used. In the year ending March 31, 2004, 105,700 women and children were admitted to these shelters. While a minority of these simply needed housing, most (over 74%) were leaving abusive homes. That so many women would need such services was inconceivable a mere quarter century ago.

Not all women leaving abusive relationships require shelter services. The 2004 General Social Survey (Statistics Canada, 2005) reported that while 11% of women who had experienced spousal violence in the past five years had contacted a shelter, only about 6% to 8% actually used the residential service, still a large number of women as indicated by the Transition House Survey results noted previously. Emergency shelters not only provide refuge to abused women and their children for periods ranging from three to six weeks, but many offer crisis telephone lines, outreach (to women who may never need to reside in a shelter) and follow-up (to previous shelters residents) to address the ongoing challenges entailed in leaving abusive partners (Tutty, 2006).

Since physical injuries are a frequent result of intimate partner abuse, health initiatives include training physicians, nurses and dentists to screen patients for domestic violence, whether in the emergency room or clinic (Gutmanis, Beynon, Tutty, Wathen, & MacMillan, 2007; Thurston, Tutty, Eisener, Lalonde, Belenky, & Osborne, 2007). Public health nurses, who conduct home visits as part of their jobs, similarly often screen for abuse.

In 1998, Conti estimated that although fewer than 15% of abused women ever seek medical care, about three-quarters of women that do need medical attention use hospital emergency departments, often presenting with complaints that do not indicate abuse. Varcoe (2001) suggests that only 2% to 8% of trauma patients in emergency rooms are identified as abuse victims, even though research strategies and identification protocols identify abuse in approximately 30% of the same population. Further, women using emergency departments are unlikely to disclose abuse unless asked directly (Ramsden & Bonner, 2002), reinforcing the importance of universal screening.

Concern about children exposed to domestic violence has emerged as the significant problem of women being abused by intimate partners and has gained societal recognition (Nixon, Tutty, Weaver-Dunlop & Walsh, 2007). The recent *Canadian Incidence Study of Reported Child Abuse and Neglect* noted that child welfare workers reported that the most common risk factor affecting mothers or other female caregivers in cases of substantiated child maltreatment was domestic violence: for 51% of victims, their mother or female caregiver was a victim of domestic violence (Trocmé et al., 2003).

Substantial differences are apparent in the child welfare response to children exposed to domestic violence across developed countries. In some provinces and countries, narrowly defined approaches have been adopted such that child protection services only become involved when children have been directly (physically) abused or when emotional harm to the children has been demonstrated. At the other end of the continuum are broad-based approaches in which any child exposed to domestic violence is deemed to be in need of protection (Edelson, 2004; Nixon et al., 2007).

In summary, the community response to intimate partner violence in Canada has created a substantial number of programs and services to assist victims of domestic violence to remain safe and, if possible, to decide to leave relationships in which they and their children have been abused. However, these agencies and services are but one aspect of Canada's response to such violence. Over the past 30 years, the justice system has evolved substantially in its approach to both prosecuting accused and assisting victims.

1.3 Summary

Two major components of the justice system are involved in domestic violence cases. The first, and perhaps the best known, is the criminal justice system that enforces and administers the Criminal Code of Canada. There is no separate domestic violence offence: abusers are subject to a variety of charges, from common assault to uttering threats to murder, that would apply to anyone regardless of the relationship between the victim and the perpetrator. Domestic violence cases are identified by the nature of the relationship between the victim and the accused and not by a particular charge. While the Criminal Code is under federal jurisdiction, its administration is a provincial/territorial responsibility, which is why different models of court specialization have evolved in different provinces.

One factor that makes domestic violence cases so challenging for the justice system is that when a person is charged with assault against his partner, the victim is usually needed as a witness. However, the victim is often ambivalent about providing evidence against her partner in court for a number of reasons, including her own safety (Ursel, 2002). The last important distinction with respect to the criminal justice system is that the burden of proof to determine a person's guilt is very high, "beyond a reasonable doubt." This means that without strong evidence, usually provided by the victim/witness, it is extremely difficult to obtain a conviction. The next two chapters review the discussions and debates in the literature around the relative merits of these areas of criminal justice system intervention.

Chapter Two: The Police Response to Domestic Violence

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Domestic violence and the harm done not only to women (who are the most common victims and the focus of this review), but also to their children is a serious matter that must be acknowledged more readily in the public sphere (Statistics Canada, 2002; Tutty & Goard, 2002). The justice system, including police, Crown prosecutors (district attorneys), defence lawyers, judges, and probation/prison officers deal with an enormous caseload of domestic violence incidents every year (Tsai, 2000). Nonetheless, the justice response to domestic violence has been of long-standing concern to those who work closely with abused women, as it is often insufficient and has received a great deal of criticism because of this (Bennett, Goodman & Dutton, 1999; Crocker, 2005; Eraz & Belknap, 1998; Ginn, 1995; Jordan, 2003). While the cost to society for an improved justice and community response to domestic violence would be substantial, the goal would be to have an increase in the rate of abusive partners being charged, as well as to provide treatment in the hopes of minimizing and preventing future occurrences of violence (Harrell, 1998; Healey, Smith, & O'Sullivan, 1998).

Since police officers are the front-line implementers of justice policy, their actions constitute the gateway into the criminal justice system. This chapter examines the police response to domestic violence incidents including new policies developed to facilitate a just response as well as enhancing safety for victims.

2.1 Background to the Police Response to Domestic Violence

Until the 1970s, the police response to incidents of domestic violence was limited. Domestic violence was considered a private matter and criminal justice policy and practice was often explicit in its aim to prevent domestic violence from entering the public sphere (Corcoran & Allen, 2005). By advocating and threatening legal liability, advocates for abused women prompted police services to intervene more actively when called to domestic violence incidents (Miller, 2001).

In response, police organizations in the 1970s developed a crisis approach to domestic violence that encouraged officers to mediate and refer victims and abusers to social service agencies (Davis & Smith, 1995, U.S.). However, throughout the 1970s and 1980s, there was increased political, social and legal pressure in Canada and the United States. This eventually spurred police services throughout the continent to develop policies which directed officers to apply the same standards of accountability to domestic violence as they would to any other crime. Societal pressure has also pushed the courts into action. Policies, such as mandatory or no-drop prosecution for domestic violence, now complement traditional arrest policies. In other areas of the world, however, the police response to domestic violence has been progressing at a slower rate, although societal pressures to change this are mounting (Ammar, 2006).

In the remaining sections of this chapter, we examine the development of domestic violence policies in the law enforcement arena, the application of these policies by police officers, and the response of the courts to the domestic violence cases that they work with within a North American context. It is important to begin such a review with a brief overview of the terms commonly used in the discussion of criminal justice policies.

2.1.1 Definitions

Authors that write about the criminal justice response to domestic violence speak of policies and practices including the concepts of ‘zero tolerance’, ‘pro-arrest’, ‘mandatory arrest’, ‘preferred arrest’, ‘pro-charge’, ‘mandatory charge’, ‘dual arrest’, ‘primary aggressor’, ‘prosecution’, ‘dual charging’, and ‘cross-charging’. As Hirschel and Hutchinson (1991) highlighted, much ambiguity surrounds the use of these terms. Many are used interchangeably, ascribed different meanings by different authors, and are interpreted and applied differently among criminal justice professionals and organizations. Failing to adequately distinguish between terms and develop consistent definitions creates difficulties for readers, researchers, and, perhaps most importantly, for the professionals that act based on their understanding of the policies and expectations that these terms represent.

Zero tolerance has become a ubiquitous – and often conflictual – term in public discussions of criminal justice policies. According to Grauwiler and Mills (2004), early advocates of zero tolerance policies towards domestic violence meant it to be a goal, as well as an attitude. Pro-arrest, pro-prosecution, and mandatory prosecution policies were, to these individuals, seen as the means by which zero tolerance could be achieved, as it should be guaranteed that domestic violence perpetrators are arrested and convicted. Unfortunately, the use of the terms ‘pro’ and ‘mandatory’ when referring to arrest policies are two particularly troublesome examples of inconsistent language (Hirschel & Hutchinson, 1991). ‘Pro’ implies *ought to* or *should*, while ‘mandatory’ connotes that one *must* do something. These terms are often not used consistently, particularly with regards to domestic violence. For example, while New York describes its arrest policy as ‘mandatory,’ the police can still use their own discretion as to whether or not to follow through if a victim requests that an arrest not be made (Demming, 1999). For consistency, as in the work of Hirschel and Hutchinson (1991), this paper uses the term ‘mandatory’ when referring to an imperative, and ‘preferred’ or ‘pro-arrest’ when there is some room for officer discretion.

‘Primary aggressor’ is another term often used in the domestic violence literature. Primary aggressor policies are meant to give criminal justice professionals, mainly police officers and prosecutors, guidelines for deciding who to charge in incidents where it may be difficult to determine who is the victim and who is the perpetrator. Ambiguity can arise when both parties display injuries and it is not clear whether these resulted from self-defence or not. It can also be unclear when both parties are making accusations of assault, but only one party displays injuries. Like other terms used in domestic violence research and practice, ‘primary aggressor’ can have disparate meanings. Some say that the primary aggressor is the first aggressor in a given incident (Martin, 1997a); others may say that the primary aggressor is the person who has been the most significant aggressor throughout the relationship (Strack, n.d.).

As it stands, determining the primary aggressor in a domestic violence incident is still a fairly subjective matter. Typically, police officers will look at the level of violence

perpetrated and the degree of coercive control to help them make a decision (Henning, Renauer, & Holdford, 2006). Unfortunately, this does not always remove the subjectivity involved with this decision.

Still another concern is that ‘arrest’ and ‘charge’ are often used interchangeably, when in fact some jurisdictions do not allow the police to charge, but leave that decision to the Crown or state. Other jurisdictions do allow the police to charge, but only after consultation with the Crown or state, and yet others give police the discretion to charge if their investigation uncovers sufficient evidence to do so. In most cases, police make the decision to lay charges in Alberta (Alberta Justice, 2000), Manitoba (Manitoba Justice, 2005), and Saskatchewan, with encouragement to consult the Crown in complex or serious cases (Saskatchewan Justice, 2004). In British Columbia and Quebec, the Crown lays charges, and in New Brunswick the police lay charges in consultation with the Crown (Ad Hoc Federal-Provincial-Territorial Working Group, 2003). This can cause confusion insofar as a mandatory arrest policy might imply a mandatory charge policy or not, depending on the jurisdiction. Most troubling is the potential for the ambiguous usage of terms to contribute to inconsistency in arrest practices, as it leaves more room for departments and officers to subjectively interpret the policy.

Even prosecuting offenders, which many would assume is straightforward, can be somewhat unclear (Garner, 2005). For instance, does prosecution occur only after charges have been filed or when a district attorney threatens to file charges? For the purposes of this review, prosecution will be used to refer to the point in the criminal justice process when charges are filed against a perpetrator of domestic violence.

‘Dual arrest’ or ‘cross-charging’ are other commonly used terms. These phrases are used to refer to a situation where both the female victim and male perpetrator of violence are arrested in instances of domestic violence (Frye, Haviland, & Rajah, 2007). This situation has been studied less frequently than other practices, such as mandatory and pro-arrest policies. While a brief introduction to these terms is necessary, it is hardly a sufficient exposition. Thus, these terms will be further elaborated on in subsequent sections.

2.1.2 The Development of Pro-Arrest Policies

Many hailed the development and implementation of pro-arrest policies as the first victory in the fight to protect women from violence in the home (Eitle, 2005). As mentioned, mandatory arrest policies typically require police officers who attend a call to arrest the accused if there is reasonable and probable cause to believe that a crime has occurred, without considering the victim’s preference (Ad Hoc Federal-Provincial-Territorial Working Group, 2003; Mills, 1998; 2003; Martin, 1997a). Preferred or pro-arrest policies offer somewhat more discretion to officers, dictating that an arrest is preferred only when probable cause has been established (Finn, Blackwell, Stalans, Studdard, & Dugan, 2004).

In the United States, pro-arrest policies seem to be more common than mandatory arrest policies (Hirschel & Hutchison, 1991) and are currently included in all state statutes (Roberts, 2002). In Canada, all provinces also have pro-arrest policies in place, though different jurisdictions use different terminology (i.e., pro-arrest versus preferred arrest; Ad Hoc Federal-Provincial-Territorial Working Group, 2003). The languages of Canadian policy manuals tend to favour a mandatory approach to arresting, however. For example,

Saskatchewan and Albertan policy instructs officers that individuals should be arrested only when there is sufficient evidence to support a charge (Alberta Justice, 2000; Saskatchewan Justice, 2004). In Nova Scotia, police must arrest individuals if there is sufficient evidence, and if they do not they must report why they chose not to do so (Nova Scotia Department of Justice, 2001). According to Ursel (2002), in 1993 the Winnipeg police service adopted a 'zero tolerance' approach to domestic violence, which directed officers to make an arrest whenever there were reasonable grounds to do so.

Pro-arrest became the preferred response of police services based on a number of studies in the 1980s demonstrating that arrest deterred recidivism in domestic violence cases (Chesney-Lind, 2002; Davis & Smith, 1995; Mills, 1998). Among the most well known of these studies was the Minneapolis Domestic Violence Experiment, conducted by Sherman and Berk (1984). In this study, eligible individuals were randomly assigned to either be arrested, given advice by police officers, or told to leave their home for 8 hours. The results showed that those who were arrested had lower recidivism rates at six-month follow-up than the other two groups. The adoption of pro-arrest policies in response to domestic violence was also influenced by a desire to create general deterrence, increase reporting, and increase arrests and charges. These policies were also designed to remove responsibility for arrests and charges from victims and, thus, protect them from threats and coercion from abusers, as well as remedy the often inconsistent and subjective police responses to domestic violence incidents.

While some objectives, such as increased arrests and charges, are considered to have been achieved in many jurisdictions (Ad Hoc Federal-Provincial-Territorial Working Group, 2003; Mignon & Holmes, 1995), not all believe that pro-arrest has fulfilled its promises. In Wisconsin, Davis and Smith (1995) found that prosecutors rejected 80% of cases after the first screening, questioning whether pro-arrest has remedied capriciousness in the response to domestic violence, or merely moved it from police officers in the community to prosecutors in the courtroom.

Dunford, Huzinga, and Elliot (1990) replicated the Sherman and Berk (1984) Minneapolis study, but, in contrast to the original, they concluded that arrest was no more effective at reducing recidivism than other responses, such as separation from the home/partner or counselling. Others, such as Miller (2001), Mills (1998) and Stark (1996) fear that pro-arrest policies disempower victims who may have legitimate reasons for not wanting their abusers arrested and charged. Further, arresting partners may actually increase the risk of future violence from some abusers, such as the unemployed (Dunford, et al., 1990). It has also been found that men from visible minority groups are disproportionately sanctioned (Mills, 2003). Sherman et al. (1992, as cited in Mills, 2003) found that arrest decreased future violence only among married and employed Caucasians. Finally, as will be discussed later in the section on dual arrest, some believe that pro-arrest has not only failed to meet the goals set for it, but has led to unintended and undesirable consequences for victims of domestic violence (Frye, et al., 2007).

2.1.3 The Police Support of Pro-Arrest Policies

Police support for maintaining pro-arrest policies appears to be increasing (Ad hoc Federal-Provincial Territorial Working Group, 2003; Brown, 2001; Mignon & Holmes, 1995; Nova Scotia Department of Justice, 2001). Although some research has identified that

some officers do not support pro-arrest policies, those that do are generally more experienced (Hanna-Moffat, 1995, cited in Clarke, 2003). Unfortunately, this general acceptance does not appear to have translated into pro-arrest policies being consistently applied; consultation sessions carried out by the Nova Scotia Department of Justice (2001) found that some police and prosecutors were concerned that charges were being laid without sufficient evidence. Victim Services personnel were also concerned about perceived increases in dual charges (when both partners are arrested following a domestic violence incident).

Mignon and Holmes (1995) found significant discrepancies in arrest practices in a Massachusetts police department, with arrest rates varying from 0 – 68%; although all ostensibly followed the same pro-arrest policy. Even in jurisdictions in which mandatory arrest policies are in place, arrest rates are still only at the 50% mark (Eitle, 2005). However, having the arrest policies written down appeared to have a positive impact on the number of arrests made (Eitle), thus indicating the importance of clarity in successfully enacting these policies.

One possible explanation for these discrepancies in arrest practices is that the choice of whether to apply the policy or not reflects the norms and values of individual officers (Jiwani et al., 1999; Oberweis & Musheno, 1999). For example, some officers may balk at or even strive to circumvent laws that are not compatible with their own norms and values (Kahan, 2000). In a U.S. study, Huisman, Martinez and Wilson (2005) identified departmental norms as a considerable barrier to training officers in domestic violence and racism. They concluded that the legacy of tension between police and victims' advocates, police organizational structure, and institutional power imbalances that were entrenched in a foundation of racism and sexism contributed to the problem. In some cases, the difficulties encountered by female trainers degenerated into hostility and harassment from the police, including female officers.

In another study involving “ride-alongs” with police officers in Phoenix, Arizona, Ferraro (1989) concluded that, in addition to ambiguity about policy expectations, contextual and ideological factors contributed to the failure of officers to consistently adhere to the pro-arrest policy. Logan, Shannon, and Walker (2006) also found that, amongst the 315 United States police officers who were surveyed, many indicated that domestic violence should be addressed with treatment rather than a criminal justice response. This was especially true when the perpetrator used or abused substances.

Experience level and case characteristics are also factors that may influence police behaviour during domestic violence calls. For instance, Sun (2006) reported that police officers were more likely to provide officer-initiated assistance to victims of domestic violence versus non-domestic violence incidents. However, victim requests seemed to have an equal level of impact on the officers between the domestic and non-domestic cases. In another investigation, Eitle (2005) found that more complex domestic violence cases were *less* likely to result in an arrest than straightforward ones. Thus, the nature and complexity of the case may have an impact on the police response.

The respondents to a Canadian survey of service providers were of the strong opinion that British Columbia's pro-arrest policy was not being implemented appropriately. The respondents identified: a police preference for having witnesses other than the victim involved, alcohol use in the incident, and the women being involved in illicit activities as

unduly influencing the police arresting decisions (Jiwani & Buhagiar, 1997). In their U.S. study, Mignon and Holmes (1995) found that less experienced officers were more likely to arrest. Arrest was also more likely if alcohol was involved, the parties were unmarried but living together, a restraining order was in place, and there were witnesses other than the victim present at the time of the incident.

These findings lend support to Jones and Belknap's (1999) claim that in domestic violence cases, an "inordinate amount of the processing focuses on the *victim's* behaviour and culpability" (p. 254). However, this might be due not only to police perceptions about the 'worthiness' of victims, but also to their belief that the victim's behaviour will influence the decision to prosecute. Unfortunately, this becomes a self-fulfilling prophecy, as believing that without victim cooperation there will be no prosecution, the police do not focus on other aspects of the incident that might provide sufficient evidence to support prosecution (Ellison, 2002).

Officers' ability to access specialized resources during domestic violence calls may also impact their response. In a U.S. study, Corcoran and Allen (2005) found that arrest rates were positively related to the officers' use of a specialized crisis team consisting of an officer and a victim services volunteer. In an earlier study, these researchers examined police perceptions of the helpfulness of a social work crisis team that was available for them on-call (Corcoran, Stephenson, Perryman, & Allen, 2001). The researchers found that the majority of officers (79%) found these teams helpful. Together, these findings support specialized resources as enhancing the police response to domestic violence calls, particularly when working under a pro-arrest policy.

Finally, as discussed earlier, the ambiguity of the language and definitions used by the policy may create problems. The 2001 review of the Nova Scotia Framework for Action Against Family Violence found that some officers interpreted the pro-arrest policy as meaning that arrests must be made even when there were not reasonable grounds to believe that an offence took place. As Hirschel and Hutchison (1991) pointed out, this may mean that the distinction between mandatory and pro-arrest policies are fairly illusory in practice.

2.1.4 Police Training in Domestic Violence

The complex nature of domestic violence, the ambiguities inherent in the language of domestic violence policy, and the evidence that exists of the inconsistent application of policy all point to the increased importance of sufficient police training. All jurisdictions in Canada have training initiatives to enhance the justice response to domestic violence (Ad Hoc Federal-Provincial-Territorial Working Group, 2003), though it appears the implementation of these initiatives varies widely at the level of police services. Alberta undertook extensive training of justice personnel, including police, to prepare them for the implementation of the Protection Against Family Violence Act (1999). Alberta used a 'train the trainer' approach, which allowed key individuals from each police agency to be trained and to take the training materials back to their agency. Alberta justice also offers annual training on domestic violence to police.

Saskatchewan also undertook a province-wide training program for police and others when the 1995 Victims of Domestic Violence Act was introduced. This was followed in 2001-2002 by another province-wide training program; some participants in this would

become trainers themselves. In addition, Saskatchewan developed a position dedicated to domestic violence training of justice professionals (cited in Ad Hoc Federal-Provincial-Territorial Working Group, 2003).

Manitoba conducted extensive province-wide training when it introduced the Domestic Violence and Stalking Prevention, Protection and Compensation Act in 1999. The province also has mandatory domestic violence training for Winnipeg police officers, and offers regular training to RCMP officers. The Ad Hoc Federal-Provincial-Territorial working group asserted that training in domestic violence needs to be ongoing and to address not only the knowledge and skills of justice professionals, but also the capacity of communities to better address domestic violence through the building of partnerships between justice agencies and the community.

Unfortunately, the literature on police training for domestic violence is scarce. What research that has been done has pointed to mixed results in the successfulness of domestic violence training for police officers. In one study of 359 police students training in the District of Columbia, Buchanan and Perry (1985) examined the effectiveness of a forty-hour domestic violence training program. The program emphasized skills in a variety of areas, including safety, diffusion, conflict resolution, communication, and referral, when attending to domestic violence calls. These skills were taught to the police students using an active, participatory method. Overall, police perceptions of attending domestic violence calls and police perceptions of disputants improved after training, though some individual scores demonstrated the continued existence of problematic attitudes. For example, there was no change in the belief that the type of people who are typically involved in domestic violence incidents are beyond assistance.

As previously mentioned, Huisman, Martinez, and Wilson (2005) demonstrated how patriarchal, sexist, and racist attitudes that were entrenched within some police cultures created barriers to delivering effective training to police personnel. In their research, Huisman, et al. found that it was difficult to convey the necessary information about domestic violence to trainees, as many of these individuals went so far as to harass and ridicule trainers during the sessions. This indicated an attitude towards domestic violence perpetration that is less open than many effective policies would require.

According to the Ad Hoc Federal-Provincial-Territorial Working Group (2003), staff turnover, deteriorating compliance with policy in the absence of ongoing training, lack of resources to provide ongoing training, and lack of clarity about who should provide training will continue to create challenges to police training. Clearly, the complexities involved in operationalizing domestic violence policy create many concerns. In addition to training difficulties, recently the issue of dual arrest has also come to the forefront of concerns about the police response to domestic violence calls.

2.1.5 Dual Arrests

Pro-arrest policies were initially developed to provide better protection for victims by ensuring a uniform police response to cases of domestic violence and providing general deterrence (Martin, 1997b). However, researchers and community professionals are increasingly concerned about the numbers of dual arrests (or cross-charging) that have recently been documented (Frye, et al., 2007). A dual arrest (or cross-charge) is when both

individuals involved in a domestic violence incident (i.e., the male and female partners) are arrested.

Some researchers have conceptualized dual arrests as a negative side effect of the pro-arrest laws that were meant to protect women (Finn et al., 2004; Osthoff, 2002). In Canada, dual arrests have increased slightly in some jurisdictions since the advent of pro-arrest policies. Winnipeg saw dual arrests increase 2% (6-8%) in the four-year period from 1992/1993-1996/1997; similarly, Alberta saw an increase of 2% (4-6%) from 1999 to 2000, although there was a 1% (6-5%) decrease from 2000 to 2001 (Ad Hoc Federal-Provincial-Territorial Working Group, 2003).

There are a number of explanations for dual arrests. While some have examined the possibility that dual arrests reflect the reality that women are equally as violent as men (Mills, 2003), most researchers emphasize the need to explore the contextual factors that influence dual arrests. For example, Hirschel and Buzawa (2002) called for an examination of the possible responses available to police, the political and social climate within which they exist, and the policies and leadership under which they operate.

As with studies that have been done to explore trends in domestic violence arrests, researchers have also examined how police officers, as well as how the characteristics of and relationships between the parties involved in domestic violence incidents influence dual arrest practice. In a study of dual arrests in Connecticut, Martin (1997a) found that young, employed, white women who lived with, but were not married, to their partners were more likely than any other group of women to be dual arrested. Furthermore, Martin identified that the presence of alcohol and/or drugs was significantly related to the decision to arrest both parties, a conclusion that was replicated by Jones and Belknap (1999) and Houry, Reddy, and Parramore (2006).

Also significant in Martin's (1997a) research was that only 19% of the women arrested had prior charges for domestic violence, compared to 41% of the men. This is interesting because one third more women than men were charged for assault related to the current incident in this study. As Martin pointed out, given that 40% of the women arrested had been victims of domestic violence within the last two years, these women were likely not "pure perpetrators" (p. 151), yet their victim status was ignored by the police. In other words, these women were likely not engaging in violence that was unprovoked, yet contextual circumstances were not taken into account. These findings underscore the importance of the contextual factors that may lead up to domestic violence in both men and women. At the time of Martin's study, however, Connecticut did not recognize self-defence or other contextual factors in their criminal justice policies.

In another U.S. study of police responses to incident scripts, Finn et al. (2004) found a strong relationship between arrest practices and police perception of arrest policies. In departments in which the police believed that they worked under a policy that "required or encouraged police to arrest both disputants if both had visible injuries," (p. 573), officers were more likely to dual arrest. Further, of the 299 officers who participated "at least 15 officers chose to arrest the husband and wife when the husband displayed no injuries" (p. 583).

In explaining their findings, Finn et al. (2004) pointed to at least two officer-dependent characteristics that mediated the decision to dual arrest: (1) experience; and (2)

attitudes. First, the researchers found that officers with more experience were more likely to make a dual arrest, even when those officers had the option of determining a primary aggressor. Second, the belief that a woman was being uncooperative with her husband was related to an increased likelihood of dual arrest. In fact, some officers chose to arrest a woman even if they had determined that the man was the primary aggressor, a finding that the researchers attributed to the belief that women were not cooperating with their husbands. Likewise, Martin (1997a) suggested that her findings on dual arrest may reflect a desire to punish women who step outside of their expected roles. Research on general arrest policies also support the conclusion that officers make decisions based partly on the identities that they ascribe to the parties involved in a case, rather than on the facts of the case (Oberweis & Musheno, 1999).

Miller (2001) reviewed survey data taken from service providers and criminal justice professionals in the United States. Based on this, Miller concluded that dual arrests may be influenced, in part, by male batterers' increased knowledge of how to manipulate the justice system to their advantage. These behaviours included: batterers ensuring that they were the ones to call 911 (rather than the victim), threatening victims with false accusations, threatening to fight for custody of their children, and injuring themselves before police arrived.

However, the respondents to Miller's survey also believed that over-enforcement of pro-arrest policies played a role in the increase in dual arrest rates. Such overly strict enforcement was considered to be related to: loss of discretion, fear of liability, the belief that arresting women would lead to longer term assistance for them, and overburdened police forces whose members do not have time to sort out the details of a case. The police, themselves, claimed that the failure to thoroughly investigate could result in an inappropriate dual charge, but pointed out that such charges could also arise from lack of evidence and "he said, she said" arguments (Nova Scotia Department of Justice, 2001). Finally, police officers claimed that the existence of two or more conflicting court orders could create significant confusion when attempting to determine how to respond to a domestic violence call. In particular, family court access orders often conflict with no-contact orders (Nova Scotia Department of Justice, 2001). As a result, at least one Canadian jurisdiction has developed a policy that directs officers to enforce the most restrictive order (British Columbia's Violence Against Women in Relationships Policy).

In a recent study of women who had been involved with the mandatory arrest policy system in New York City, Frye, et al. (2007) found that 9% of their sample of 183 participants had experienced a dual arrest. It was found that the likelihood of experiencing a dual arrest was linked to a higher socioeconomic status. The authors speculated that this could be related to the male perpetrator having a higher education and, thus, a potentially greater knowledge of the law and the ability to convince the police officer that the victim should also be arrested (much like Miller, 2001 had concluded). The authors also indicated the possibility that police officers were less experienced in dealing with two higher income individuals in such instances and, thus, had a harder time deciding who the perpetrator and the victim were, once again pointing to the role that officers' preconceived notions about domestic violence may play.

Another study, conducted by Muftic, Bouffard, and Bouffard (2007), investigated 83 women who had been convicted of domestic violence perpetration. The goal of the study was

to begin to understand *why* women are increasingly being dual arrested after a violent incident. Their results showed that dual arrestees were more likely to be married to their partner and received lighter sentences than women who were the sole arrestee. This supported the perception that women who are involved in dual arrests are more likely acting defensively against their partners, whereas the behaviours of women who are sole arrestees more closely resembles their male partner's violent behaviour. Women who were sole arrestees were also more likely to recidivate than dual arrestees.

Another response to domestic violence has been to develop coordinated community responses (CCRs). These policies are attempts to create a holistic approach to domestic violence that incorporates activists, politicians, and the criminal justice system in order to decrease recidivism and prevent future occurrences of violence (Hochstein & Thurman, 2006; Salazar, Emshoff, Baker, & Crowley, 2007). In a study evaluating the effectiveness of two such programs in Georgia, Salazar, et al. concluded that there was, indeed, an increase in the criminal justice response to domestic violence in these areas. Unfortunately, a side effect of the CCR was that more women were also dual arrested. As the number of women who are arrested continues to rise, both as an effect of CCRs and other public policies, it also becomes necessary to develop treatment programs for these women. One such model was proposed by Tower (2007), incorporating multiple elements of group work in order to allow women to explore anger management, the dynamics of abuse, and safety issues.

To deal with the criticisms surrounding increases in dual arrests, Hirschel and Buzawa (2002) and Martin (1997a) proposed that primary aggressor laws be enacted. Under such laws, law enforcement officers are given permission to arrest the primary offender in a violent situation, or the person who has committed offensive, not defensive, violence. Such policies are addressed in more detail in the next section.

2.1.6 The Development of Primary Aggressor Policies

Pro-arrest policies were designed specifically to ameliorate the impact of police subjectivity. However, the phenomenon of dual arrests, as mentioned, has recently brought their efficacy into question. Primary aggressor policies (which are grounded in a contextual approach to understanding domestic violence rather than the incident-based approach traditionally taken by law enforcement) are one alternative strategy that is thought to enhance fairness in the police response to domestic violence (Muftic, Bouffard, & Bouffard, 2007).

Primary aggressor policies require that investigating officers decide whom to arrest by determining the victim in the relationship, rather than the victim(s) in the current incident (Hirschel & Buzawa, 2002). Gael Strack (n.d.), director of San Diego's Family Justice Centre and member of the American Bar Association's Commission on family violence, stated that a primary aggressor is the one who perpetrated the majority of the violence, not necessarily the first aggressor. This requires officers to develop an understanding of the history of the relationship and place the current incident in a specific context. In doing so, police are better able to identify when violence is in self-defence or a provoked response to recurrent battering from an abuser.

Unfortunately, some jurisdictions define the primary aggressor as the first aggressor in the incident, with the result being that anyone who uses reasonable force in self-defence, thereafter, is not to be arrested (Martin, 1997a). These conflicting definitions provide yet

another example of the complications of policing domestic violence, especially where terms and definitions are used inconsistently.

Some Canadian and United States jurisdictions are currently using or developing primary aggressor protocols. In Canada some of the factors that police should consider in making this judgement include: (1) the severity of injuries to both parties; (2) the first person to aggress is not necessarily the primary aggressor; and (3) investigating whether threats of future harm were made to family or household members (Chewter, 2003). However, there is still a lack of research on the guidelines impact to the community. For instance, in cases where the parties involved in a domestic violence incident are both making accusations of assault, the policies of New York and Ohio state that it is preferable to determine the primary aggressor rather than dual charging; that the primary aggressor is not necessarily the first aggressor; and that history, distinguishing between offensive and defensive injuries, the threat of future harm, and the severity of injuries, are factors that officers should consider when determining the primary aggressor (New York State Office for the Prevention of Family Violence, 1999; Ohio Department of Natural Resources, 2003). In Canada, Prince Edward Island directs officers to consider similar factors when faced with dual accusations of assault (Nova Scotia Department of Justice, 2001).

When implemented, primary aggressor policies generally appear to result in a decrease in the rates of dual arrest. For example, in Dallas, Texas, after pro-arrest policies were put into place, dual arrest rates raised to 6%. After primary aggressor policies and training were introduced in response to this, the dual arrest rate subsequently fell to below 1% (Martin, 1997a). Not all jurisdictions in Canada and the U.S. use primary aggressor policies, however, and even when such policies are in place, they are not always implemented effectively. As Mignon and Holmes (1995) found in their U.S. study, the police cannot always determine a primary aggressor, which may contribute to dual arrest rates. In these cases, the police may prefer to arrest both parties rather than to arrest no one and let abusers go without sanction. To help address this issue, Strack (n. d.) encouraged police to receive training in identifying primary aggressors. For instance, police should consider factors like criminal history, corroboration, motive to lie, and use of alcohol/drugs in violent episodes. There are also numerous questions that police could ask, including who is at the most risk of future harm and do the injuries and evidence corroborate the statements? Thus, it is important for police officers to be clear on the regulations in their jurisdictions, but also that they receive training to help them identify primary aggressors in incidents of domestic violence.

2.1.7 Biased Perceptions: Police Who Abuse Their Intimate Partners

Another concern with the police's response to domestic violence is that some officers responding to these incidents are themselves batterers, thus biasing their judgement of the situation (Erwin, Gershon, Tiburzi & Lin, 2005). Police officers may also find themselves responding to calls involving one of their colleagues as the abuser, which will further add to the difficulty they have in making sense of the situation.

Two separate U.S. surveys found similarly high rates (around 40%) of intimate partner violence being perpetrated by police officers (Neidig, Russell, & Seng, 1992, cited in Mignon & Holmes, 1995; Johnson, 1991, cited in Johnson, Todd, & Subramanian, 2005). In contrast, another American study based on a review of incident reports found the domestic

violence rate of police officers to be just 1.2% (Erwin, et al., 2005). It is important to keep in mind that the significant disparity between these research findings could be attributed to reporting practices, rather than differences in actual incident rates, as the first two studies (Neidig, et al.; Johnson) involved anonymous self reports, whereas the study by Erwin et al. involved the analysis of official records. There are numerous factors at play that may contribute to low reporting rates. These include: a police culture of secrecy and solidarity; a belief that involving the abuser's colleagues will be ineffective at addressing violence (Johnson, et al., 2005); and fear of income and benefit loss should the abuser be convicted (Erwin, et al., 2005).

The results of these studies point to the need for more research on how police officer perpetration of intimate partner violence influences the behaviours of all officers. Further, police departments need to develop protocols with respect to dealing with violence in police families. In San Diego, for example, policy dictates that the Professional Standards Unit must investigate domestic violence that involves sworn and non-sworn personnel (San Diego Police Department, 1999). However, under San Diego's system, regular patrol units, not the Professional Standards Unit, may still be the first response to a domestic violence call. As a result, victims whose perpetrators are police personnel might still be reluctant to call for the immediate assistance of officers who could be the abuser's peers.

Lonsway (2006) conducted a survey of 78 police agencies in the United States and found that only 29% had policies in place for dealing with police officers who were involved in domestic violence incidents. Lonsway also indicated that this result was likely artificially high, meaning that the majority of police agencies were not prepared to deal with instances of officer abuse. For those agencies with policies in place, they varied considerably in their scope and provisions. Debate still exists amongst policy makers as to whether a policy that specifically addresses officer abuse is necessary (Lonsway). Those against such a move claim that a general policy for addressing domestic violence is sufficient, while those in favour of a specific policy claim that having one in place would help law enforcement deal with instances of officer abuse more specifically and, possibly, more successfully. The more general issue of how to adequately respond to and deal with domestic violence is a concern not only for law enforcement officers, like police, but also prosecutors within the court system.

Chapter Three: The Court Response to Domestic Violence

By Leslie M. Tutty & E. Jane Ursel

As stated previously, the justice system's response to domestic violence up until the present day in North America, including the policies and procedures used by the police, prosecutors, and court system. These have been developed in an attempt to effectively address domestic violence with the joint goals of: (1) holding offenders accountable; and (2) providing safety to the victims. This chapter describes the typical court response to domestic violence and introduces what is currently known about specialized domestic violence courts.

As stated above, entry into the criminal justice system is typically the result of a call to police, usually by the victim herself, but sometimes by a family member, friend or neighbour. The police respond and determine whether there is sufficient evidence to conclude that a crime has occurred. In determining what constitutes sufficient evidence, police guidelines stipulate there must be "reasonable and probable grounds that a crime has occurred." If there such evidence exists, the police charge the offender if he is present or issue a warrant for his arrest if he is not present.

A hierarchy of evidence is required in the criminal justice system that serves to screen out cases at different levels of intervention. While the police can arrest on "probable grounds", the prosecutor is mandated to proceed with the case only if they have a "reasonable likelihood of conviction". If the case goes to trial, the judge must determine if the accused is proven guilty "beyond a reasonable doubt." This hierarchy of required evidence/proof is the basis of our justice system, which assumes that "a person is innocent until proven guilty". This helps explain why there are many more calls to police than people arrested, many more arrests than prosecutions and many more prosecutions than convictions. Individuals are often very frustrated by the drop-off of cases from arrest to conviction; however, this is the price we pay for a justice system based on the underlying belief system of safeguarding an individual's innocence unless there is compelling evidence to the contrary.

Once an accused person is charged, the police have two options for proceeding. If the offender does not appear to be a current threat to the victim or the community, they can release the accused "on their own recognizance". This means the accused undertakes to keep the peace and have no contact or communication with the victim and promises to appear on their court date. Police can also stipulate other conditions if deemed necessary, for example a weapon prohibition. If the accused is thought to pose a risk to the victim or if he has a long prior record, the police will arrest and the accused will be held in custody (jail) until his bail hearing.

At a bail hearing, the prosecutor, referred to as a Crown attorney in Canada, typically presents the case for keeping the accused in jail, and the defense lawyer typically presents the case for release of his client on bail. Whether the individual is detained in custody or released on bail, the next step is for the prosecutor to determine whether to proceed with the case. If, for whatever reasons, the accused agrees to plead guilty, the matter proceeds to a sentencing hearing and the prosecutor's job and the defence lawyer's job is quite straight forward. The prosecutor presents the facts of the case the defence lawyer responds and both "speak to sentence", meaning that they suggest a sentence that they consider appropriate in the particular case. Often the prosecutor will highlight the seriousness by suggesting a more

serious sentence and the defense lawyer will point out “mitigating” circumstances that would suggest a less severe sentence. This is the nature of the adversarial legal system within which the defence lawyer and the prosecutor work.

However, practice is usually more complex than the simple process outlined above. Often guilty pleas are a result of a plea bargain, which may occur for a variety of reasons. Frequently, the prosecutor offers a deal to the defense lawyer to drop some of the more serious charges if the accused is willing to plead guilty. Those who wonder why a prosecutor would do this should keep two considerations in mind. First, the prosecutor has their eye on the high burden of proof they must meet (beyond a reasonable doubt) in order to get a conviction.

Second, in all cases, but particularly in domestic assault cases, the prosecutor must assess how strong their witness is. If they are concerned that the victim/witness will not testify or may change their story on the stand, they may see a guilty plea as the best way to achieve some consequences for the crime. In jurisdictions such as the Winnipeg Family Violence court, the Crown attorney often meets with a reluctant witness, indicating that they would be willing to proceed on lesser charges and recommend counselling for the accused if the victim/witness will testify. If the victim agrees, the prosecutor will call the defence lawyer, indicating that they have a willing witness; often this will result in a guilty plea. This process has been referred to as “testimony bargaining” (Ursel 2000; 2002).

Finally, in a number of specialized domestic violence courts, prosecutors implement a form of diversion. This typically occurs in cases in which: 1) the victim won’t testify; 2) the accused will not plead guilty; 3) the crime is a first offence; 4) it is not a serious charge; and 5) the victim is consulted and concurs. Such “diversion” results in the Crown proposing to the defence that if the accused is willing to attend, participate and complete a treatment program for batterers, the prosecutor will remand the case (delay the court hearing). If the accused successfully completes the program, the charges may be dropped. This is a very attractive offer to defence counsel because the accused will not have a criminal record, their charges will be stayed and hopefully, the treatment will be effective and there will be no further abuse. However, not all specialized courts provide a diversion option. For example, in the Yukon court (see Chapter 8) accused persons are offered treatment only after they have pled guilty and their sentence is withheld until completion of the treatment program

In cases in which the accused and defence have no interest in entering a guilty plea, the Crown must seriously assess the reasonable likelihood of conviction if they proceed to trial. The critical determinant of “likelihood of conviction” in domestic assault cases is the cooperation of the victim/witness (Dawson & Dinovitzer 2001). Many factors go into the difficult decision about whether to proceed to trial. A large proportion of cases in which the accused pleads ‘not guilty’ ultimately end in a stay of proceedings, otherwise known as “dismissed for want of prosecution”. Formally, a stay of proceedings means that the Crown will not prosecute the case unless new evidence justifies doing so. A 12-month time limit exists for deciding to proceed in cases that have been stayed. In reality, stayed cases are seldom proceeded with in the year-long period because the underlying problem, the reasonable likelihood of conviction, has not been overcome in this time.

Each time a sensational criminal case is covered in the media, considerable criticism emerges with respect to “settling for a guilty plea” or “failing to prosecute” or “failing to

convict”. However, these cries of indignation seldom take into consideration the complexities of a case and the reality that justice personnel must conduct themselves within the requirements of the law. If we are not willing to abandon our dearly held belief that a person “is innocent until proven guilty”, we must assess the justice system within the restrictions that this belief system imposes, particularly the escalating burden of evidence/proof required as a case proceeds through the system.

Given the complexities of the law and the special issues encountered in domestic violence cases, such as reluctant witnesses, we can appreciate why the traditional criminal justice system response to domestic violence cases would be less than satisfactory. Beginning in 1990, provinces across Canada began to consider specialization as a better way of handling domestic violence cases. As stated in the introduction to the book, the administration of our federal criminal code occurs at the provincial level. Thus, each province, and indeed, municipalities within provinces, has selected different strategies for specialization. However, to date, all of the specialized courts established in Canada have operated within our standard court structure.

3.1 Court Structure

Two primary levels of criminal courts exist in Canada: Provincial Court and the Court of Queen’s Bench (the higher Court). The Provincial Court hears the overwhelming number of criminal cases, probably over 75% of all criminal matters. However, the Canadian Criminal Code does provide that when a charge is a serious charge (indictable offense) the accused pleading not guilty has a right to have their case heard either in Provincial Court or Court of Queen’s Bench. An indictable offense indicates that, if convicted, a sentence of incarceration could be imposed for two years or more. If a person is sentenced to two years or more they are held in a Federal prison. Few accused persons opt for a hearing in Court of Queen’s Bench; however, as a general rule, the more serious the charge and the consequences the more likely the accused will be tried in the Court of Queen’s Bench. In most provinces, more senior, experienced Crown attorneys prosecute cases in the Court of Queen’s Bench (the higher court).

Because most criminal matters are heard at the Provincial Court level, domestic violence specialization occurs there. However, strategies have been introduced in some jurisdictions to deal with domestic assault cases that may end up with a trial in the Court of Queen’s Bench. Some authors use the term “vertical prosecution”. This means that the specialized “domestic violence” Crown attorneys will prosecute the case if it proceeds to the Court of Queen’s Bench. In some jurisdictions, the specialized prosecutor will also stay with the case if it goes to the Court of Appeal.

Appeal Courts handle appeals from a dissatisfied defence lawyer or a dissatisfied prosecutor. Just because a lawyer is unhappy with the judge’s verdict or sentence does not automatically lead to an appeal hearing. The lawyer must apply to have their appeal heard and stipulate the grounds on which an appeal is justified. The Appeal Court judges will determine whether the applicant has grounds to appeal. Many applications are turned down, but if they proceed to be heard, vertical prosecutions would provide for the Crown attorney who started the case in the specialized court to follow the case to Appeal Court.

Some authors prefer to use the term “Crown ownership” of a file (case). This includes the concept of vertical prosecution but also means that the same prosecutor will handle the

accused person's case if he comes back on a second or third re-offence over the years. Since our specialized courts are revealing that a small percentage of offenders are chronic re-offenders this type of "ownership" of a file is very effective.

Another term that the reader will encounter is 'judicial review'. In most courts, traditional and specialized, once the case has been ruled on as not guilty or guilty and sentenced the judge's involvement in the case is over. However, the process of judicial review as described in the Yukon specialized court (Hornick, Boyes, Tutty & White, 2008), provides on-going monitoring of the offender's progress by the judge. It typically takes the form of an offender appearing back in court periodically to report on their progress, usually until their court mandated course of treatment is complete. The practice is very time-consuming for judges, thus it is more likely to occur in jurisdictions with smaller populations or a smaller volume of cases.

3.2 Prosecutors' Response to Domestic Violence

Historically, just as the police had a great deal of discretion in deciding whom to arrest, prosecutors also had a great deal of discretion in deciding whom to prosecute (Cahn & Lerman, 1991). As pro-arrest policies created higher arrest rates in domestic violence incidents, prosecutors and the courts needed to develop strategies to deal more effectively with the increased caseloads. Up until these policies were enacted, prosecutors typically did not see many domestic violence cases, as often the victims would not pursue prosecution (Worrall, Ross, & McCord, 2006).

Cahn and Lerman (1991) wrote that, in the U.S., prosecutors in some jurisdictions have undertaken a number of initiatives to improve their response to domestic violence. One initiative was increased collaboration with the police, including the development of protocols for police to alert prosecutors to cases that involved domestic violence. The use of specialized prosecutors and courts was also promoted, as will be discussed further in this section and chapter two of the review. Prosecutors also attempted to address victim safety by: subpoenaing victims so that it appeared to offenders that victims had no choice but to testify against them; taking responsibility for the decision to lay charges so that victims could claim they had no control over the charges laid; and by prosecuting without victim testimony, which could be accomplished through the use of tools such as eyewitnesses, photographs, and videotapes.

In California, domestic violence criminal protection orders, or restraining orders, have been used to increase limited and/or peaceful contact between the victim and violence perpetrator (Seave, 2006). These orders have also been used to prohibit domestic violence perpetrators from carrying firearms and, in the process, try to reduce recidivism rates (Seave). However, prosecutors do not employ these resources as much as they could, leaving room for improvement in California and elsewhere.

Prosecutors have also worked with other service providers to develop programs that provide support to victims throughout the court process (Cahn & Lerman, 1991). For example, victim advocates and court preparation workers. With regards to the outcomes of domestic violence charges, the use of specialized sentencing options, such as pre-trial diversion, might be useful. This would allow defendants to avoid trial if they adhered to the

conditions set for them (such as treatment and no contact orders), and post-trial diversion, which would allow defendants to avoid incarceration for meeting sentencing conditions.

While these initiatives suggest that prosecutors are moving toward a more effective response to domestic violence, there are still barriers to the process. Cahn and Lerman (1991) cite evidentiary problems, lack of funding, overburdened prosecutors, negative attitudes toward prosecuting domestic violence, and the difficulties of multi-organization coordination all as obstacles to the implementation of effective domestic violence programs within the courts. Despite the difficulties, all provinces in Canada have implemented prosecution policies for domestic violence (Ad-hoc Federal-Provincial-Territorial Working Group, 2003); approximately half of US jurisdictions have some form of specialized prosecution system (Ford & Breall, 2000).

As with police officer's decisions of whether or not to arrest, prosecutors are also placed in a difficult decision-making position when dealing with domestic violence cases. In examining the factors that influence this process, Worrall, Ross, and McCord (2006) found that the extent of a victim's injuries was an important consideration in whether or not to prosecute. Also, men were more likely to be criminally charged than women, and felony charges were more likely to be made than misdemeanour charges when the victim expressed a preference for prosecution. As with pro-arrest policies, pro-prosecution policies have been set up in many jurisdictions to assist prosecutors in their decision-making process.

3.2.1 Pro-prosecution Policies

Pro-prosecution policies were developed to address the concern that the courts were not following through with domestic violence cases and not sentencing appropriately. According to Cahn and Lerman (1991), three important factors were involved in the need to back arrests with prosecution. First, social norms are expressed through the legal system and enforced through the courts. Without prosecution, family violence could be viewed as tolerated, if not condoned, by society. Second, an arrest is made essentially meaningless without following through with prosecution.

As much has been made of the deterrent effects of arrests, presumably this effect would be neutralized if further sanctions were not in place. However, at least one American study failed to find any relationship between prosecution outcomes and recidivism rates (Davis, Smith, & Nickles, 1998a). On the other hand, Tolman and Wiesz (1995) found that both arrest and prosecution with conviction were related to lower recidivism rates. Although this relationship between prosecution and recidivism was not statistically significant, it may be enough to be meaningful in practice. Finally, the nature of domestic violence, in which the offender often lives with the victim and has the opportunity to continually repeat his crime, makes it a high-risk situation and, therefore, a priority for intervention. This point speaks to the belief that prosecution increases safety for the victim and/or any potential victims.

Mandatory prosecution is similar in nature to mandatory arrest policies: Prosecution, like arrest, proceeds with or without the cooperation or willingness of the victim as long as there are reasonable grounds on which to proceed. Mandatory prosecution policies are justified by the message they send to abusers (specific deterrence), the message they send to the public (general deterrence), and by the assertion that they safeguard women from pressure and retaliation from their abusers (Davis & Smith, 1995; Ford & Breall, 2000).

Furthermore, according to Ford and Breall (2000), prosecutors perform a crime control function and enhance victim safety through the incarceration and/or treatment of offenders. Supporters also contend that mandatory prosecution simply extends the notion of equal protection under the law to the courtroom (Flemming, 2002) in the same way that it was extended to the policing arena (Robbins, 1999). However, Ford (1999) questioned this support for mandatory prosecution. Ford contended that its increased popularity may be accounted for by: a prosecutorial ideology that emphasizes societal over individual interests; the desire to manage caseloads and case outcomes in a way that is compatible with the traditional legal system structure; and a historical frustration with uncooperative victims.

Some researchers and victim's advocates are concerned that mandatory prosecution disempowers victims (Brown, 2000; Cahn & Lerman 1991; Ford, 1999; Mills, 1998) and may jeopardize women's safety (Ford, 1999; Osthoff, 2002). Further, some individuals, including prosecutors, believe that prosecution is not necessarily the best approach to all cases (Mills, 1998; Osthoff, 2002). In interviews with 20 Canadian Crown prosecutors, MacLeod (1995) identified a number of prosecutors' concerns about pro-prosecution. These concerns included that: it does not necessarily meet the wishes or needs of victims; its implementation is under-funded; and it can be re-victimizing and inflexible, which causes women to refuse to access justice system.

Adhering to a mandatory prosecution policy often means that prosecutors must try a case with a 'hostile' witness or no witness at all. While prosecutors may have access to the police statements made by victims, in the United States these may be excluded from court proceedings if victims refuse to testify (Byrom, 2005; Ellison, 2002). Some prosecutors attempt to coerce victim testimony through subpoenas and threats of contempt charges and incarceration, activities that are characteristic of 'hard,' no-drop prosecution policies (Ford & Breall, 2000). In such cases, the process of prosecution becomes as punitive for the victim as for the offender (Ford, 1999).

However, there is increasing interest in enhancing evidentiary procedures so that prosecutors have less dependence on victim participation. Wattendorf (1996), a legal advisor to a New Hampshire police department, suggested that in order to facilitate "victimless" prosecution, evidentiary procedures should be enhanced. Wattendorf made several suggestions as to how this could be achieved: police and prosecutors should tape record excited utterances (spontaneous statements made by victims or witnesses to the police while the victims or witnesses were still under stress from the inciting incident), secure a victim's statement, take photographs, interview the accused perpetrator, interview witnesses other than the victim, seize physical evidence (such as bloody clothes and weapons), secure any 911 tape recordings, and secure any relevant medical records.

One tool being used to help prosecutors engage in 'victimless' prosecution is digital photographic evidence. These instruments replace instant film photographs, which produce pictures of poorer quality than the new tool. Garcia (2003) studied the impact and perception of digital photographic evidence in two Indiana jurisdictions, and concluded that using digital photos taken by police at the crime scenes led to an increase in guilty pleas, conviction rates, and incarceration rates. These relationships remained after controlling for charge type, injury severity, and the criminal history of the defendant. Also, the police, prosecutors, and judges involved believed that the digital photographic evidence enhanced their ability to respond to domestic violence incidents. The police believed that their work would more likely lead to a

charge; prosecutors believed that decreased reliance on victim testimony was beneficial, and judges lauded the evidentiary quality of the photos.

These new initiatives in collecting evidence have been accompanied by new standards for the admissibility of evidence. In some U.S. jurisdictions, previous domestic violence incidents, even against different partners, and excited utterances have been allowed as evidence under certain conditions (Ellison, 2002).

A concern among victim's advocates is that dual arrests resulting from false allegations by the offender or inadequate investigations by police and/or prosecutors may lead to victims being prosecuted for actions that they did not take, or took in self-defence. According to Osthoff (2002), judges and lawyers may fear appearing to be biased if they do not prosecute women arrested for assault. Consequently, according to Osthoff, it is critical for defence lawyers to fully investigate women's cases and identify early on whether their client's actions were in self-defence or not.

Although the unjust prosecution of victims is quite disconcerting, according to Martin (1997a), dual arrests are not likely to go to trial: 81% of dual arrests cases received a disposition with no conditions, 7% were dismissed, 12% (vs. 24% of single arrests) resulted in conviction without incarceration, and less than 1% resulted in incarceration. There are many possible explanations for these results, including that so many are disposed because it was, in fact, victims who were arrested and there was little evidence to take to trial. Given that the high rate of disposition and dismissal means that *both* parties often went unsanctioned, the results may also indicate a prosecutorial attitude that the 'fighting' was mutual and that there was no victim. The dual arrests that were made were also more likely to involve drugs and/or alcohol, which may contribute to this attitude.

Some jurisdictions provide more discretion to prosecutors who may drop some or all charges in exchange for the defendant adhering to certain conditions, such as attendance at treatment groups. This approach is taken in Calgary, Alberta's HomeFront program, a specialized first appearance court for domestic violence cases (Clarke, 2003). Some prosecutors will allow victims to drop charges only after they receive counselling (Davis & Smith, 1995). Some Canadian jurisdictions engage in 'testimony bargaining' in which certain incentives, such as dropping the more serious charges, are offered to victims in exchange for their testimony (Ursel, 1998).

Overall, the prosecution of domestic violence cases involves negotiating the tension between the goals of individual victims and the goals of the justice system. From a prosecutorial standpoint, the tension plays out as a conflict between supporting the victim and representing the state (Ford & Breall, 2000).

While, ideally, both victims and the justice system have the same ideas about how to best reach a shared goal, this may not always be the case. Sometimes the differences between the victims and justice system are subtle. For example, Robbins (1999) asserted that effective mandatory prosecution policies must always leave room for criminal justice system discretion, so long as that discretion is exercised based on the safety of the victim and not on the belief that domestic violence cases are less worthy than others. Likewise, Ford and Breall (2000) recommend that prosecution policy be implemented with consideration for all of the factors that may endanger victims. Sometimes the differences in expectations between the criminal justice system and victims are less subtle. For example, Flemming (2002), Chair of

the Domestic Violence Unit in Seattle's prosecutor's office, claimed that prosecution decisions should include the victim's perspective. Ultimately, however, prosecutors must represent the community and the interests of justice, which may, at times, override individual concerns.

Another step in the criminal justice response to domestic violence, which may or may not coincide with the wishes of the victim, is to mandate treatment for perpetrators of intimate partner violence. In the next section, this process and its efficacy are reviewed.

3.3 The Rationale for Specialized Domestic Violence Courts

In the past two decades, specialized domestic violence courts have become widespread across North America as one mechanism to more effectively address intimate partner violence. The need to address the unique characteristics of domestic violence is often cited as the rationale for domestic violence courts (Gover, MacDonald, & Alpert, 2003). The reasons for developing specialized domestic violence courts are many. First, domestic violence cases often involve overlapping concurrent charges relating to separate incidents with the same partner. In the absence of specialized courts, a number of prosecutors could be proceeding on different components of the case without knowing of the other related incidents (Buzawa & Buzawa, 2003). Specialized courts enhance the possibility of consolidating all matters and proceeding on the full range of offences rather than fragmenting cases throughout the system.

Second, specialization was designed to respond to the common criticism of the traditional legal process that it did not protect victims, and offenders were seldom arrested and prosecuted. Prior to specialization, sentences for assaulting intimate partners were typically lenient, not befitting the "serial" nature of the crime (Bennett, Goodman & Dutton, 1999; Jordan, 2003). A very serious concern was that within the traditional system, victims were often re-victimized during the justice process (Buzawa & Buzawa, 2003). One example is that victims who recant their testimony could be held in contempt of court and confined to prison; despite the fact that their reason for not testifying was because they are being threatened by the offender (The Honourable Judge Mary Ellen Turpell-Lafond, RESOLVE Research Day key note address, 2003).

The term "specialized court" has become a short hand term for a broad range of related services that support or interact with the court. Most specialized courts operate in tandem with victim support programs, government or community treatment agencies and often specialized police units, Crown prosecutors, and probation officers (Babcock & Steiner, 1999; Shepard, 1999). In fact, there are many different models of specialization. Some specialized courts involve judicial review processes, other courts emphasize rigorous prosecution, and still other models of specialization emphasize programs to support and advocate for victims in order to assist them through the court process (Hoffart & Clarke, 2004). Studies have found that victims who utilize advocacy programs and protection orders are much more likely to testify or have the cases completed in court (Dawson & Dinovitzer, 2001; Weisz, Tolman & Bennett, 1998; Barasch & Lutz, 2002).

Domestic violence courts fall under the larger umbrella of what are often referred to as 'special' or 'problem-solving courts'. Karan, Keilitz, and Denaro (1999) pointed out that there was no standardized approach to developing and operating domestic violence courts; however, they contended that there were three common challenges to the success of such

courts: (1) coordinating the justice system response to domestic violence; (2) consistent identifying and tracking cases; and (3) collaborating with community agencies. Similarly, MacLeod and Weber, writing for the Judicial Council of California (2000), asserted that, while the process and configuration of domestic courts may differ somewhat from each other, they have five major features in common:

1. Cases are assigned to a specialized calendar. This is done so that cases are heard in a specified time and place in the presence of personnel familiar with domestic violence. The Council claimed that this was a “fundamental of domestic violence courts” (p. 7). This process may or may not involve dedicated judges and prosecutors and/or the combination of civil and criminal aspects of a case.
2. Screening: this involved screening the case to ensure that all elements, civil and criminal, were linked. It might involve assigning a single judge to administer all aspects of the case, or making sure that each court is aware of the proceedings occurring in another court.
3. Intake units and case processing: the intake unit provides the screening to coordinate aspects of a case, and screens to determine what services and supports the victim and offender need and then makes the appropriate referrals.
4. Service provision: some services may be provided in house, for example, a victim advocate. However, victims often “have needs that exceed traditional forms of support provided by the court” (p. 14). Thus, services may be accessed through the community. Using community resources to assist victims is a “crucial component of domestic violence courts” (p. 9).
5. Monitoring: domestic violence cases can be complex, and many different orders may affect one family. Also, the defendant’s completion of certain programs is often a requirement of a disposition. Monitoring these elements is an important aspect of domestic violence courts and, like service provision, requires collaboration between the courts and community.

Three basic principles underlie specialized domestic violence courts, some of which are incorporated into separate courts (the early Ontario model) and some combined in one court (Clarke, 2003). These principles are: 1) early intervention for low risk offenders; 2) vigorous prosecution for serious and/or repeat offenders; and 3) a commitment to rehabilitation and treatment. The early intervention strategy fits with what have become known as “problem-solving” courts, in which those who commit crimes because they need treatment for drugs or mental health issues are offered the opportunity to receive such assistance in the hope that they will not re-offend (Van de Veen, 2004).

The first principle, early intervention, is exemplified in the Yukon court specialization the Calgary HomeFront model, and the Ontario specialized courts. A variety of procedures are used by Canadian specialized courts that focus on early intervention. Some require the accused to plead guilty before attending batterer intervention programs; others stay the proceedings with a peace bond. Some utilize judicial or court review in which the accused periodically return to court to review their compliance with treatment (Gondolf, 2002; Healy, Smith & O’Sullivan, 1998).

The speed with which the court facilitates the accused starting treatment also varies based on the court processes. In Gondolf's (1999) four-site evaluation of batterer interventions in the United States, the length of the program was less important than the time it took to begin the program. The men in the programs with pretrial mechanisms were much more likely to stay in treatment (Gondolf, 2002, p. 214).

The second principal, vigorous prosecution, emphasizes Crown attorneys partnering with the police and victims to ensure the strongest prosecution effort possible. This emphasis encourages police to record the victim's statements and injuries at the time of the incident through photographs, video tapes, audio tapes and tapes of 911 phone calls. This thorough on-going process of evidence collection results in prosecutors being less dependent on the victim's willingness to testify (Dawson & Dinovitzer, 2001). This strategy is also likely to utilize vertical prosecution and/or Crown ownership of a file so the specialized prosecutors "keep" the case from first appearance, through to trial and possibly Appeal Court. File ownership will also ensure that the same offender will return to the same prosecutor for subsequent offences over the years. A recent U.S. study of a court with specialized prosecutors, found that convictions for domestic violence offences were significantly related to lower rates of recidivism (Ventura & Davis, 2005).

The third principal, rehabilitation and treatment, is evident in the sentencing patterns of judges in specialized courts. Court-mandated treatment has become the most frequent disposition in a number of jurisdictions with specialized courts. The emphasis on treatment is not limited to convicted offenders, as many specialized prosecutors offer peace bonds or delays in proceeding to enable the accused to attend treatment in the hope of having charges dropped.

Most "specialized courts" entail more than the court system, involving community treatment agencies coordinating with the efforts of (sometimes) specialized police units, Crown prosecutors, and probation officers (Babcock & Steiner, 1999; Shepard, 1999). In fact, there are many different models of specialization. More important is the different processes that the specialized courts can adopt including judicial review (Gondolf, 2002) and relying less on the victim testifying by, for example, acquiring photographs of the victim's injuries or tapes from 911 phone calls (Dawson & Dinovitzer, 2001). Others develop programs to support and advocate for victims in the hope that they will testify (Hoffart & Clarke, 2004). Two studies (Weisz, Tolman & Bennett, 1998; Barasch & Lutz, 2002) found that victims that utilized advocacy programs and protection orders were much more likely to testify or have the cases completed in court.

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In courts that focus on vigorous prosecution, vertical prosecution is often used, in which specialized Crown prosecutors keep the case from first appearance through trial (Ursel, 2002). The cases are often enhanced by investigations conducted by special domestic violence police teams.

3.4 Research on Specialized Domestic Violence Courts

Specialized domestic violence courts have become relatively common across North America, yet few have been evaluated. Exceptions include the Winnipeg court (Ursel, 2008), the Yukon Domestic Violence Treatment Option (Hornick, Boyes, Tutty & White, 2008: funded by NCPC) and some courts in Ontario (Moyer, Rettinger & Hotton (2000, cited in Clarke, 2003; Dawson & Dinovitzer, 2001). Specialized courts have two general purposes: to hold offenders more accountable while protecting victims and to provide early intervention to low-risk or first time offenders (Tutty, Ursel, & LeMaistre, 2008). However, some models are more oriented to one goal than the other.

The specialized domestic violence courts in Canada present an interesting variety of models designed to provide more effective interventions. While a select few have been evaluated, most reports are not published and are difficult to access. We rely heavily on Clarke's best practices review (2003) for the evaluation findings reported in this section.

Winnipeg established the first dedicated family violence court in 1990 and appointed dedicated Crown attorneys, supported by a women's advocacy program for women whose partners were charged (Ursel, 1998; 2000; 2002; Ursel & Hagyard, 2008). According to Ursel's evaluations, before specialization, the most common sentences for convicted offenders were conditional discharge, probation and fines. After specialization, sentencing patterns changed dramatically: supervised probation (most often with a condition to receive treatment) and incarceration became the most frequent outcome of a conviction.

Ontario developed a system of 22 specialized domestic violence courts with plans to have one in all 54 jurisdictions in the province by 2004 (Clarke, 2003). An evaluation by Moyer, Rettinger and Hotton (2000, cited in Clarke, 2003) focused on the initial model where some sites used early interventions and other used vigorous prosecution. In Ontario's early intervention model, the accused pleads guilty as a condition to being mandated to treatment. Moyer et al. reported that case processing times were significantly reduced, a higher proportion of accused entering the program pled guilty as compared to the year before the project was implemented, and treatment started soon after referral. Victims in the early intervention sites were significantly more likely to be satisfied with the case outcomes than other victims.

In 2000, while not creating a fully specialized court system, Calgary established "HomeFront", a specialized initial or docket court, which is a critical point of entry into the regular court system. Accused who are considered at low risk of re-offending can have their charges stayed by a peace bond at the docket court. The Crown prosecutor reads the particulars of the offence into the record and has the accused acknowledge its accuracy, so that this information is on file in the event of a reassault (Hoffart & Clarke, 2004).

While some community stakeholders expressed concerns about the decriminalization of domestic assault charges, Hoffart and Clarke clarified that, "those with Peace Bonds tend to make quicker linkages with treatment and are less likely to drop out than those without

Peace Bonds” (p. xiii). They also noted that offenders who received peace bonds were mandated to treatment in a timely fashion, in the hope that they would be less resistant to such intervention in the immediate aftermath of police contact. Early case resolution is a key principle of the model and refers to the ability to set court dates quickly so as to facilitate rapid referral of eligible offenders to treatment. As Hoffart and Clarke summarized:

“About 46% of the cases were concluded within two weeks from the first appearance in the Domestic Violence Docket Court (a mean of 37 and a median of 17 days). About 86% of the HomeFront cases were resolved within two adjournments or less.” (p. xiii)

Evaluations of two American specialized courts in San Diego (Peterson & Thunberg, cited in Clarke, 2003) and in Brooklyn (Newmark, Rempel, Diffily & Kane, cited in Clarke, 2003) provided positive findings with respect to baseline data that compared variables such as time to disposition, proportion of offenders being placed on probation or mandated to treatment, and recidivism rates.

Research on a specialized court in the Yukon using an early intervention model and judicial review (Hornick, Boyes, Tutty & White, 2008) concluded that cases were seen significantly more quickly; fewer victims were unwilling to testify; offenders were fast-tracked into counselling; and recidivism rates were reduced.

When implemented with attention to the challenges described by Karan, Keilitz and Denaro (1999) and features such as those described by the MacLeod and Weber (2000), there is evidence that specialized courts are effective. In a quantitative study of a rural jurisdiction in South Carolina, Gover, et al. (2003) concluded that the implementation of a domestic violence court increased arrest rates by 10% and that defendants processed through the specialized court were 50% less likely to recidivate than those processed before the court’s creation. The researchers concluded that collaboration with community agencies, centralization of services for defendants and victims, dedicated court personnel, consistent case processing, and defendant monitoring were key to the effectiveness of the court’s response.

In their U.S. study of domestic violence courts, MacLeod and Weber (2000) asked court staff for their perspectives of the courts. The Council was told that the court process itself had a beneficial effect insofar as it was quicker, allowed more supports for victims, facilitated better case coordination, and, of particular importance to a number of respondents, allowed one judge to follow the case through to completion (though it is important to note that not all courts would have this option). Further, enhanced knowledge among court personnel about domestic violence, increased resources as a result of community collaboration, and improved accessibility and “user-friendliness” were cited as important effects of the specialized courts.

However, according to Mirchandani (2005), specialized courts, including domestic violence courts, have been criticized for being part of the move toward “technocratic justice”, which she defines as justice that strives for the most efficient and effective path to social order and control. Mirchandani contends that a specific criticism of specialized domestic violence courts is that their social change aspect, including victim participation and the dismantling of patriarchal systems and values, will be sacrificed to the desire for efficiency and efficacy. But, in a qualitative study of the domestic violence court in Salt Lake City

Utah, Mirchandani concluded that the technocratic structure of the domestic violence court actually facilitated the more substantive, social change oriented goals of domestic violence advocates, while still meeting technocratic objectives. In addition, Mirchandani found that many of the court professionals saw themselves as working for social change, even while acknowledging that they were doing so within a framework built to increase efficiency in the process and effective social control in the results.

These findings are congruent with those of MacLeod and Weber (2000, U.S.), who were told by court professionals that the most important goal of domestic violence courts was increased victim safety, followed (in order) by better assistance to victims, increased accountability of offenders, better case management, more efficient use of resources, increased awareness of domestic violence, and better court security. Mirchandani believes that technocratic and social change orientations can form a symbiotic relationship, wherein increased efficiency in the court process leaves more time for personnel, particularly judges, to address social change goals through, for example, increased interaction with defendants.

3.4.1 Factors Influencing Court Process and Outcomes

Some researchers have investigated factors that may influence court process and case outcomes. Ursel (2002) reports that in the Winnipeg Family Violence Court, domestic violence cases involving both the spouse and child(ren) are more likely to result in conviction than cases involving a spouse alone. According to Ursel, this could be related to hesitance to stay cases involving children, higher motivation of women to testify, and an increase in witnesses if the child can testify. Further, Ursel found that spouse and child cases resulted in more severe penalties for the defendant.

In a comprehensive study of case processing at the Sacramento County Criminal Court, Kingsnorth MacIntosh, Berdahl, Blades, and Rossi (2001) found that variables such as the number of witnesses, victim treatment in hospital, and offender intoxication during the incident were related to the decision to file charges; a past history of violence almost attained significance ($p < .06$). Important for the discussion around developing primary aggressor policies, dual arrest was negatively related to the decision to file charges against either party. The authors found no significant relationship between the decision to file and victim cooperation, victim-offender cohabitation, or ethnicity of the victim and defendant. With regard to type of charges, the authors found that severity of attack, victim injury, hospitalization, photos of victim, history of violence, and substance use were positively related to the decision to file felony charges; severity of injury and history of violence were significantly related to felony convictions.

In a U.S. study of factors affecting verdicts, Cramer (1999) found that the variables most likely to predict a guilty verdict in domestic violence cases (in order) were gender, presence of photos, previous criminal history, ethnicity and relationship with the victim. According to Cramer, the typical guilty cases in her study were “White males with previous criminal histories, who are married to or living with the victims, and whose cases had Polaroids available” (p. 1144); Cramer found the reverse pattern in cases where the defendant was found not guilty.

Comparing intimate and non-intimate partner homicides in Philadelphia, Auerhahn (2007) concluded that men who perpetrated intimate partner homicide were sentenced more

harshly than women who had committed IP homicides, as well as men and women who committed non-IP homicides. These findings supported Cramer's (1999) results that the status of one's relationship (intimate versus non-intimate) and gender may impact the extent of the criminal justice system's response to violent episodes, as well as homicides.

In a Canadian study of judicial decision making between 1970 and 2000, Crocker (2005) concluded the intimate nature of the crime is itself a factor in determining sentence severity. In a 1996 Australian study of judges' sentencing statements, Warner found that a number of factors influenced judges' determination of an appropriate sentence. For some of the judges, the domestic nature of the crime, the victim's wishes, hardship for the family, provocation from the victim, and emotional stress or intoxication on the part of the offender were seen as mitigating factors that called for a lighter sentence. However, for some of the judges, the domestic nature of the crime, which was seen as a breach of trust, and intoxication were counted as aggravating factors calling for a harsher sentence, while sentencing based on victim's wishes were seen as problematic insofar as the offender could manipulate the situation to his advantage. Warner's description pointed to another factor influencing sentencing: the subjective nature of determining leniency. In one case the trial judge saw 2 years, 11 months in custody as lenient for a violent sexual assault for which he would have ordered 7-8 years without the victim's appeal for leniency; however, on appeal the offender was given a sentence of probation.

The safety of women and children victimized by abusive men partners has been a prime justification for specialized courts, yet relatively few aspects of the justice system have been evaluated to assess whether victim safety is an outcome. The women's perceptions of the HomeFront specialized domestic violence first appearance court were mixed, as might be expected (Tutty & Nixon, 2004). Some women were pleased that their partner was mandated to treatment and commented on changes that they perceived. Others were sceptical that batterer treatment is effective. In short, specialized approaches make a difference for many women whose partners are charged, however, some still fall through the cracks and specialized advocacy services are not always available or accessible.

In summary, few evaluations of specialized courts have been conducted and most have focused on only one model. Comparative research is complex, however. The context of the communities in which the courts are established is critical and must be documented and captured in any evaluation. Despite the challenges, further research is essential in understanding which components of specialization make the most difference in holding offenders accountable and in safeguarding victims. Further research could have direct application by identifying best practices so that the justice and community services can revise and enhance their responses to those affected by intimate partner violence.

3.5 Court-Mandated Treatment for Domestic Violence Perpetrators

As the primary condition to which the accused are mandated by the courts, establishing the efficacy of batterer treatment programs is critical. This is especially important since many women stay or return to potentially dangerous partners in the hopes that they will change as a result of treatment (Gondolf & Russell, 1986).

Numerous evaluations of treatment for men that abuse intimate partners have been conducted. Canadian studies have included: Augusta-Scott and Dankwort (2002) in Nova

Scotia; Montminy, Roy, Lindsay and Turcotte (2003) in Quebec; Palmer, Brown and Barrera (1992), Barrera, Palmer, Brown, and Kalaher (1994), Scott and Wolfe (2000), and Tutty, Bidgood, Rothery and Bidgood (2001) in Ontario; and McGregor, Tutty, Babins-Wagner and Gill (2002) in Alberta.

Gondolf (1997a) counted a total of 30 published single-site program evaluations, many with methodological shortcomings such as quasi-experimental and exploratory research designs. Gondolf (1997b) concluded that, because of these methodological limitations, the results showed no clear evidence of the efficacy of the treatments. He did, however, note that the success rates of batterer programs were comparable to drunk driving, drugs and alcohol, and sex offender programs. Another meta-analysis was done that looked at 22, mostly quasi-experimental, evaluations of domestic violence treatment (Babcock, Green, & Robie, 2004). This analysis found no differences between the treatment models (e.g., Duluth model compared to cognitive-behavioural models, etc.) and that treatment had a statistically significant effect on recidivism. Buttell and Carney (2006) also found that a court-mandated program had similar effects on level of violence, truthfulness, alcohol/drug use, and stress coping abilities for Caucasian and African American men. This was one of the only studies to look at the impact of ethnicity on program outcome, but the results were positive.

While many of the studies of batterer programs have been quasi-experimental, some randomized clinical trial studies of batterer intervention programs have been conducted. For instance, Palmer, Brown and Barerra's (1992) study in Ontario randomly assigned a small sample to a 10-week treatment program compared to a probation only control group. Those assigned to treatment were found to have re-offended at a significantly lower rate than the probation only group. Two additional clinical trials, conducted in Broward County, Florida and Brooklyn, New York (Jackson et al., 2003), raised serious questions about batterer intervention programs when neither found statistically significant differences between violations of probation or re-arrests in men randomly assigned to either a treatment or control condition. These conclusions, which were based on the gold-standard of experimental research designs (i.e., randomized clinical trials), have since raised concern about the efficacy (or lack thereof) of batterer intervention programs.

Gondolf (2002) responded to these concerns with critiques of the implementation of the two studies done by Jackson et al. (2003). In some instances, random assignment did not occur, the groups were characterized by high drop-out rates, and it was difficult to access victims for follow-up reports, casting doubt on the interpretation of the findings. In Gondolf's (1999) multi-site evaluation of four batterer treatment programs, with variation on whether referrals were pre-trial or after trial, length (from 3 months to 9 months) and whether addition services were offered, Gondolf found no significant differences across programs in re-assaults, the portion of men making threats, and the quality of the victims' lives. Approximately 20% of the referrals were identified as dangerous men who continued to assault their partners despite intervention. Such offenders may be in need of a different treatment approach, but are also difficult to identify. Further, Gondolf (2002) recommended screening for severe substance abuse and psychological problems, which may also be associated with attrition.

Also, rather than the complete cessation of violence, Gondolf referred to the 'de-escalation of assault.' He found that, while nearly half of the men in the four treatment sites re-assaulted their partners at some time in the nine months following program intake, that two and a half years later, more than 80% had not assaulted their partners in the past year (based on

partner reports) and that the severity of the assaults were reduced. This finding fit with Jennings (1990) who had questioned whether or not the absolute cessation of violence during treatment was a fair standard for batterer intervention programs. In treatment programs designed for other problems, such as alcoholism, it is a normal experience for clients to relapse, but they are still encouraged to learn from this and have it help them in the future. Gondolf's (2002) final recommendation was to shift the focus on batterer interventions from program length to program intensity. Also, programs should be implemented early on in the criminal justice process. For example, as soon as possible after charges are laid is when motivation tends to be highest. At this point, offenders could begin attending counselling up to three or four times per week.

It is interesting to note that three studies, one in Canada (Ursel & Gorkoff, 1996) one in the United States (Gondolf, 1999) and one in the United Kingdom (Dobash, et al., 2000), found similar evidence that court-mandated treatment programs did reduce recidivism and/or reduce the level of abuse and control in the couple's relationship. Ursel and Gorkoff's Canadian study examined a sample of convicted offenders from the Winnipeg Family Violence Court comparing recidivism rates of individuals who received and completed court mandated treatment to those who did not receive court mandated treatment. This study was limited to recidivism rates as measured by re-arrest and did not undertake partner interviews. The authors concluded that treatment did have an effect on reducing recidivism, however the degree to which the recidivism was reduced was influenced by two factors: 1) the criminal history of the accused and their related sentence; and 2) the history and experience of the treatment program.

The Winnipeg recidivism study compared 551 convicted offenders who were ordered to attend and completed a court mandated treatment program to 1,479 offenders who received other sentences not involving treatment. Two years after completion of their sentences, individuals who were sentenced to probation and received treatment from an established program had the highest reduction in recidivism; individuals on probation who received treatment from a very new and less experienced treatment program experienced a smaller reduction in recidivism. Offenders sentenced to a maximum security jail did not have as large a reduction in recidivism if they had completed treatment as did offenders in the minimum security jail with an established treatment program. While this study was limited to examining only one measure of re-offending - recidivism that led to criminal justice system re-involvement - it is notable that the results are similar to the studies conducted by Gondolf and Dobash and colleagues, who had the added benefit of follow-up interviews with partners.

Besides the efficacy of such programs, another key question about batterer treatment programs is whether court-mandated offenders benefit in comparison to those who self-refer. Edleson and Syer (1991) compared six treatment conditions and found, at 18 month follow-up, that men involved with the courts had lower levels of violence than voluntary group members. Similarly, Rosenbaum, Gearan, and Ondovic (2001) found that court-referred men who completed treatment had significantly lower recidivism rates than self-referred men. Although court-mandated offenders seem to benefit from intervention programs, Bowen and Gilchrist (2006) found that one-third of their 120 British participants dropped out of the mandated program. Thus, drop-out rates can be fairly high and these individuals seem to be at a higher risk to re-offend. Those who drop out tend to be young, have low education and income, and come from abusive families. To address this problem, Bowen and Gilchrist suggested that more stringent guidelines be in place to prevent mandated offenders from dropping out of treatment.

In summary, while there has been considerable scepticism expressed by victim's advocates about the effectiveness of batterer intervention programs for court-mandated clients, studies generally support their utility for a relatively large portion of those charged with assaulting their intimate partners. However, some repeat offenders with co-occurring problems, such as substance misuse and psychological disturbances, that are not amenable to the models currently in use suggests the need for further research on identifying these subgroups and developing appropriate interventions.

3.6 Conclusion

Overall, the research reviewed in this chapter suggested that many factors, in addition to policy and protocol, influence the criminal justice system's response to domestic violence. While policy influences police response, departmental and individual officer interpretation of policy affects their response as well. This interpretation is mediated by characteristics unique to individual officers, which are often influenced by the cultural milieu in which they operate. Furthermore, research on dual arrests has demonstrated the need for the police to not only understand the policies under which they operate, but to have adequate knowledge of domestic violence dynamics. Thus, it is crucial that jurisdictions provide adequate education for staff, be clear on their officer expectations, develop arrest policies that are based on a comprehensive understanding of the dynamics of domestic violence, and monitor the application of these policies at the street level. Monitoring is also important, as officers work independently and can effectively circumvent policies that do not fit with their values and beliefs (Finn et al., 2004).

With regards to the prosecution of domestic violence, it appears that collaboration and innovation are important to developing effective policies. By working with the police, prosecutors have developed methods to support 'victimless' prosecution; by collaborating with agencies and advocates, they have developed programs to support victims through the prosecution process, and programs to promote offender accountability; and by increasing communication within the justice system, they have been able to ensure that the disparate aspects of a single case are brought together in a more holistic fashion.

Criminal justice policy and practice continues to evolve. Because the police are "street level policy makers" (Martin, 2002, p. 145) and "gatekeepers to the criminal justice system" (Hickman, 2003, p. 607), understanding their response to domestic violence is crucial, and will remain so if we are to continue improving our response to domestic violence.

Chapter Four: Victims' Perspectives of the Court System

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Though many studies have focused on the effectiveness of the police and court systems' response to intimate partner violence, less research has been conducted about victims' perceptions and experiences with the justice system. In evaluating programs and approaches to domestic violence, an increased emphasis on better outcomes for the victims has become apparent (Worden, 2000). This has been coupled with a growing belief that the justice system must respond to women's needs in order to be effective in reducing domestic violence (Lewis, Dobash, Dobash, & Cavanagh, 2000).

For example, one urban community designed specialized domestic violence teams to increase victim's involvement with the criminal justice system (Weisz, Black, & Nahan, 2005). Unfortunately, the desired outcome did not occur and the authors used this as an example of how important it is to learn the victim's view when designing successful responses to domestic violence. Also, in order to increase its effectiveness, the justice system is in need of the active participation of women in contacting the police and providing evidence (Lewis et al., 2000). The justice system must also understand the victim's experience, including their motivations to act in certain ways and the difficulties they may face.

The research reviewed here asked women about their experiences and perceptions of the justice system. For certain groups, especially Aboriginal and immigrant women, few studies have interviewed women directly. In these circumstances, studies will be presented that have asked others, including front-line workers, about the experiences they have seen.

4.1 Women's Perceptions of the Police

Changes in societal attitudes towards domestic violence have led to policies that either encourage or mandate criminal justice personnel to treat domestic violence as a serious issue. As a result, police officers are intervening more directly in domestic violence calls. All of the police forces in Canada currently have pro-charging or mandatory charging policies (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003). Similarly, in the United States most states have mandatory arrest policies (Buzawa & Buzawa, 1996, cited in Smith, 2000). However, few of the articles and reports reviewed here specifically described what policies and procedures were in place. Also missing from the majority of the studies was any mention of the extent to which the policies were being utilized by police officers.

Using a random sample of over 25,000 homes across Canada, the Statistics Canada General Social Survey (2004) found that 36% of female victims and 17% of male victims reported domestic violence to the police (Mihorean, 2005). A report from the U.S. (Tjaden & Thoennes, 2000), based on the Violence Against Women survey, contacted a random sample of 8,000 women and 8,000 men nation-wide. Based on the findings, it was concluded that female respondents had only reported about one-quarter of experienced physical assaults and one-half of stalking by an intimate partner to the police. Male respondents reported even

fewer incidents and, consequently, lower reporting of intimate partner violence. Another American study (Fugate, Landis, Riordan, Naureckas & Engel, 2005) conducted interviews with 491 abused women in public health centres and a hospital and found that 62% of the women did not call the police after a domestic violence incident.

However, Canadian and American national incidence studies indicated that victims' reporting of domestic violence was increasing. In the 1993 Statistics Canada Violence Against Women Survey, which interviewed 12,300 women, only 29% of family violence victims stated that they had reported violence to the police (Gartner & MacMillan, 1995), but in the Statistics Canada General Social Survey of 1999, the proportion of women reporting domestic violence to police increased to 37% (Mihorean et al., 2001). In the 2004 Statistics Canada General Social Survey, the percentage reporting was similar (36%) (Mihorean, 2005). Data from the U.S. National Crime Victimization Survey, based on 1,300 interviews conducted between 1992 and 1998, showed that about half of those who had experienced intimate partner violence reported it to the police. It was also found that a higher percentage reported violence incidents in 1998 (59%) than in 1993 (48%) (Rennison & Welchans, 2000).

Spousal abuse among immigrants and visible minorities is also considered to be underreported to police. Ursel (1995) found that though 14% of Manitoba's population were immigrants and visible minorities, they represented only 8% of the accused in Winnipeg's Family Violence Court. In Smith's (2004) analysis of Canada's 1999 General Social Survey, 10% of the 504 immigrant women surveyed reported abuse to the police, slightly less than the 12% of 1,980 non-immigrant women who had reported partner violence to the police (Smith, 2004). Bui (2004) reported on a study conducted in a large American city which found that, based on their proportion of the population, Vietnamese American women who had been abused were five times less likely to phone 911 than other abused women. In Davis, Erez, and Avitabile's (2001) American study, two-thirds of police chiefs and prosecutors from the 50 largest cities in the U.S. believed that immigrant victims reported crime less than other victims and that domestic violence was the crime most likely to be underreported.

Two other Canadian studies reported low rates of domestic violence reporting to the police by women from particular ethnic communities, including the Indo-Canadian (Russell, 2002a) and the Arab Muslim community in London, Ontario (Baobid, 2002). MacLeod and Shin (1993), based on interviews with women from several ethnic communities, found that fewer of the 21 Indo-Canadian and 15 Chinese-speaking women interviewed for the study had ever called the police compared with women from other ethnic communities who were interviewed.

Ursel (2001), in a Winnipeg study investigating domestic violence reporting rates, found that approximately one third of the female victims who called the police were Aboriginal (3,836 out of 11,133). At the time of the study, Aboriginal people made up 12-13% of Winnipeg's population and so it was found that Aboriginal women called the police almost three times more often than other women in the city. This rate of reporting is similar to the rate of victimization of Aboriginal women that was found in the Statistics Canada 1999 General Social Survey, which was that Aboriginal women were abused at a rate of three times that of non-Aboriginal women (Ursel, 2001). Thus, while not every woman who was being abused was likely reporting the incident, the ratio of domestic violence to reporting was fairly high in this group of women.

To further investigate domestic violence reporting, several studies have looked at the characteristics of female victims and their situations to try and uncover what influenced whether or not they contacted the police. Important factors that have been found in such studies have included: severity of abuse, the nature of the relationship with the offender, marital status, income level, and race. Canadian researchers related reporting violence to the severity of the abuse. Referencing the 1993 Canadian Violence Against Women Survey, Ursel (1998) found that a woman was “four times as likely to call if she is injured and 5 times as likely to call if she fears her life is in danger” (Ursel, 1998, citing Ingratta & Johnson 1995, pp.142, 144). This indicated that the severity of the abuse being experienced can have a substantive influence on reporting rates. Ursel explained that women who were in immediate danger of extreme violence would be more likely to call police because other sources of support, such as lawyers and relatives, would be unable to help them at that point.

In Chambers’ (1998) interviews with front-line workers from community agencies serving abused women and police officers, it was found that women were more likely to report violence to the police if the violence was escalating and if they were afraid that their partners would kill them. American researchers (Brewster, 2001; Buzawa, Hotaling, Klein & Byrne’s 2000; Dutton, Goodman & Bennett, 1999; Hirschel & Hutchison, 2003; Wiist & McFarlane, 1998) similarly concluded that the more severe the physical abuse and injury, the more likely women were to contact the police.

Hirschel and Hutchison (2003) reviewed studies from the 1980s and early 1990s and found a greater likelihood of the women using police if there was a previous history of abuse, if the abuse was severe, if weapons were used, and if the offender had used alcohol at the time of the incident. Like the studies mentioned above, Buzawa, Hotaling, Klein and Byrne’s (2000) study asked 118 women victims if they would call the police if there were further incidents of abuse, when the offence was less serious and the victims wanted less intervention, victims were less likely to say they would call the police again.

Two studies, one Canadian and one American, associated marital status with whether or not women reported violence to the police. Using data from the 1993 Violence against Women Survey conducted by Statistics Canada, Brownridge and Halli (2001) found that married victims who had cohabited before marriage were three times more likely than married victims who had not cohabited or women who were living common-law to not call the police after a domestic violence incident because they did not believe that the police could help them. The group most likely not to phone police because they were afraid of their husbands were the married victims who had not cohabited before marriage, even though the women in the other types of relationships described more severe violence. Whether married victims had cohabited before marriage or not, they more often did not phone the police because they wanted to keep the incident private, did not want the police involved or did not want their partner arrested. In contrast to these findings, Hutchison and Hirschel (1998) found that married women were much more likely to seek help from police than women who were living common-law with an abusive partner.

Several reports argued that women with limited financial resources and Aboriginal and Black women were more likely to contact the police because they did not have alternative sources of support (Buzawa & Buzawa, 2003; McGillivray & Comaskey, 1999; Ursel, 1998). Hutchison and Hirschel (1998) found that American Black women, who generally have lower incomes than White women, more often sought legal help, including

assistance from the police. In Bent-Goodley's (2001) review of the literature, it was found that African Americans were generally more likely than White Americans to report domestic violence. As with the above studies, this was often because they had fewer economic resources and other formal channels they could use. Ursel (2001) reported that while all of the accused in the Winnipeg Domestic Violence Court were of lower socio-economic status than the general population, the Aboriginal men's socio-economic status was much lower than that of the non-Aboriginal male accused, reflecting the lower economic status of Aboriginal people in general in Canadian society. However, Brewster's (2001) study of 187 stalking victims found that those more likely to go to the police were White women.

4.1.1 Why Women Choose Not to Involve the Police

Victims' first contact with the justice system is usually the police, thus it is important to know what prevents victims from taking the critical step of calling the police. If victims choose not to contact the police, then the justice system will not be in a position to assist them. Researchers from Canada, Great Britain and the United States have asked victims of violence what has prevented them from contacting the police. In both national incidence studies and those with smaller samples of women, the common reasons that victims gave for not calling police were: fear of the offender or fear the violence would increase, wanting to maintain privacy, and beliefs about the police response. Other less common reasons were: physical barriers to phoning, fears about the impact on their lives of involving police and wanting to avoid mandatory arrest and prosecution laws.

More recently, Buzawa, Hotaling, and Byrne (2007) found that women who had experienced childhood abuse were less likely to contact the police upon revictimization than those who had not. Thus, personal background is another thing that may influence women to not report a violent incident to the police, in addition to the other factors discussed below.

Fear of the offender was one of the most common reasons for victims not reporting violence to the police, in several Canadian studies (Bradford & Bruce, 2004; Chambers, 1998; Marshall, 1995; Roberts, 1996). Fear of reprisal was also noted by one-third of the abused women (34%) responding to the Statistics Canada 1999 General Social Survey, especially those who were separated from their abuser (45%) (Patterson, 2003). In Jiwani and Buhagiar's (1997) Canadian study, front line workers from 47 organizations believed that victims were reluctant to involve the police because they were afraid their abusers would retaliate. Immigrant women interviewed for Martin and Mosher's (1995) study also said that retaliation from the abuser if they called was a major factor women considered in deciding whether or not to call police. Fear of repercussion or fear that the violence would increase was also a factor in women not reporting violence in three other American studies (Felson, Messner, Hoskin, & Deane, 2002; Fleury, Sullivan, Bybee, & Davidson, 1998; Wolf, Ly, Hobart, & Kernic, 2003). But the Felson et al. study, which used 1300 interviews conducted from 1992 to 1998 for the U.S. National Crime Victimization Survey, found that the incentives for calling the police outweighed the costs. Also, fear of the partner re-assaulting was a more frequent reason for reporting an incident than fear of reprisals was for not reporting.

Wishing to maintain privacy was a frequent reason for victims not reporting violence in both Canadian and American studies, especially in the national incidence studies. For example, Patterson (2003), using data from the Statistics Canada 1999 General Social

Survey, reported that one of the most frequent reasons given was that it was a personal matter (54% of women and 75% of men). American studies that have investigated this reason for not reporting domestic violence have come up with conflicting conclusions with respect to this. Felson et al. (2002) used data from the U.S. National Violence Against Women Survey and found that the most common barrier to calling the police was a desire for privacy (24% of women who did not call). In Fugate et al.'s (2005) American study where 491 women were interviewed in public health centres and a hospital, 13% reported worrying about privacy or confidentiality. However, in Fleury et al.'s (1998) study interviewing 137 shelter residents, this was a barrier for very few women (3%).

Previous negative experiences with the police or the justice system, or fears about the police or justice system's response were other reasons that victims gave for not calling the police. In Bradford and Bruce's (2004) Canadian study, many women said they did not call the police because of a lack of response from the police or the justice system in the past and that they felt intimidated by the legal system. In Jiwani and Buhagiar's (1997) Canadian study, based on interviews with front line workers from 47 organizations, prior negative experiences with police or other parts of the justice system kept women from contacting police. As well, the workers said that some women were afraid of the justice system without being familiar with it. In the same study, 89% of the 47 front-line workers interviewed also said that there was inconsistent implementation of policies, such as proactive arrest and no-drop prosecution, and that this meant that women did not contact the police because they did not feel supported. Buzawa and Buzawa (2003) argued that when police have not acted to reports in the past, women do not call because they may think the police are not concerned or that the justice system is not able to help them. Fear of the police's response also prevented some Aboriginal women from contacting the police, according to McGillivray and Comaskey's (1999) Canadian study.

Some victims believed that calling the police would not help or that the police would not act. In several American reports and one Canadian report (Brewster, 2001; Fleury et al., 1998; MacLeod, 1995; Tjaden & Thoennes, 2000; Wolf et al., 2003), victims said that involving the police would not help. In another study by Fugate et al. (2005) where 491 women were interviewed in public health centres and a hospital, 39% of the women did not call the police because they were not needed or found to be useful. Some believed calling the police would not help or that they would fail to act. Most of these women thought that the abuse was not serious, which could indicate that they thought the police would not consider their situation serious and, consequently, not intervene. In a study by Jiwani and Buhagiar (1997), front-line workers said victims were afraid that involving the justice system would make things worse. Victims in a Canadian and United States study believed that the criminal justice system would not be able to protect them (Chambers, 1998; Tjaden & Thoennes, 2000). Most of the 187 victims in Brewster's American study of victim stalking did contact the legal system eventually, but some women never went to the police because they thought that there was nothing the police could do.

Physical barriers to contacting the police were mentioned in Canadian and American studies. One barrier was abusers preventing victims from phoning the police (Fleury et al., 1998; Prairie Research Associates, 1994; Wolf et al., 2003). Another physical barrier was not having a phone or transportation (Fleury et al., 1998; Roberts, 1996).

Fear that their children may be taken away from them by their partner or the state is another thing that has stopped some women from contacting the police (Buzawa & Buzawa, 2003; Chambers, 1998; Jiwani & Buhagiar, 1997). Police intervention may lead to the involvement of child protection services because of the legislation in six Canadian provinces and two territories (Nixon, Tutty, Weaver-Dunlop & Walsh, 2007), stating that exposure to domestic violence without evidence of other forms of child abuse is sufficient cause for child protection services to intervene. Aboriginal women were especially fearful of this, as the Canadian Panel on Violence Against Women (1993) reported that, in the past, child protection authorities had often apprehended Aboriginal children from abusive homes and that they would continue to do so.

Police involvement also instigates other fears that have prevented some victims from reporting domestic violence including:

- loss of income if their partner was arrested (Chambers, 1998; Jiwani & Buhagiar, 1997; Wolf et al., 2003),
- not being able to stay in their relationship or splitting up their family (Fugate et al., 2005; Gillis et al., 2006; Jiwani & Buhagiar, 1997; Roberts, 1996) and
- being arrested (McGillivray & Comaskey, 1999).

Mandatory arrest and prosecution laws have also deterred some victims from reporting violence to the police. In Wilson's (1998) Canadian study interviewing 18 victims, some said that they had not been aware of the pro-arrest policy when they called the police and would not have called if they had known about it. Though most victims (61%) in Smith's two American studies (2000; 2001) believed that they would be more likely to report domestic violence in a community that had mandatory laws, a substantial minority (13%) would be less likely to report abuse in communities with these laws.

It is also the case that some women do not recognize that they are being abused or do not think that the violence is serious enough to report it and that this prevents some women from contacting police (Jiwani & Buhagiar, 1997; Tutty & Goard; 2002; Prairie Research Associates, 1994; Weisz, 1999). The frontline workers in Jiwani and Buhagiar's study identified the dynamics of abusive relationships as an important reason why women do not contact the police. The workers noted that a woman may not contact police because: she blames herself for the abuse; the abuser has convinced her that she could not make it on her own; or she may have convinced herself that it was not abuse occurring. Tutty and Goard also proposed that abused women may not acknowledge that they were being abused or may hope that it was only a one-time incident. In Prairie Research Associates' (1994) report, 10% (7 of the 72) of the women who had not phoned police about the most recent incident of violence they had experienced said that they had not considered calling the police because they did not think that the incident was serious enough.

The responses from victims in Canadian national incidence studies were somewhat different from those studies with small samples, likely because in the population studies a greater proportion of victims had experienced less severe abuse. In the Statistics Canada General Social Survey (1999) the most frequent reason given for not calling the police was that the incident was handled another way (61% of women and 67% of men). The next most frequent response, by half the victims interviewed, was that they did not want to get involved

with police (Patterson, 2003). In the 1993 Canadian Violence Against Women Survey (Gartner & MacMillan, 1995), when asked why they did not contact police, the major reason women gave was that the incident was too minor (55%).

4.1.2 Why Aboriginal Women Choose Not To Involve the Police

All of the studies referred to in the following section are Canadian. The experiences of Aboriginal women living on reserves or in other isolated and rural areas are not discussed here, because the current SSHRC CURA study is being conducted in urban settings.

In exploring the reasons why Aboriginal women choose not to involve the police, only one study was based on interviews with 26 Aboriginal victims (McGillivray and Comaskey's, 1999). According to the authors, few studies have been done that include Aboriginal women's accounts of their experiences of family violence. Other sources for this section on why abused Aboriginal women do not call police include:

- an article by Emma D. LaRocque (1995), with the Department of Native studies, University of Manitoba;
- two inquiries which had input from victims as well as other stakeholders: Hamilton and Sinclair's (1991) *Report of the Aboriginal Justice Inquiry of Manitoba* and the 1993 Canadian Panel on Violence Against Women; and
- Reports based on interviews with police, court staff and front-line staff: Native Women's Association of Canada (n.d.) and Jiwani and Buhagiar (1997).

Some of the reasons that Aboriginal victims do not report violence to police are identical to other victims. Like non-Aboriginal women, many Aboriginal victims were reluctant to report violence because they feared retaliation, according to the Native Women's Association of Canada study (n.d.). McGillivray and Comaskey's (1999) study found that some of the 26 women they interviewed did not contact the police because of fear the violence would get worse. Other responses women gave in McGillivray and Comaskey's study were also responses many non-Aboriginal women gave: their abusers prevented them from calling, they called the police frequently but were discouraged by the response or they chose not to call the police.

Other reasons for not reporting violence to the police specific to Aboriginal women were: racism, Aboriginal people's different approach to conflict resolution, and being ostracized from their family or community if they report violence to police. McGillivray and Comaskey (1999) argued that a combination of factors: racism, insensitive and discriminatory police officers, and community shaming contributed to isolating victims and making decisions difficult.

Racism keeps many Aboriginal women from reporting violence. Canadian researcher LaRocque (1995) stated that victims are subject to racism if they go outside their community: they will be judged and their stories will not be believed by police and courts. The Canadian Panel on Violence Against Women (1993) also reported that victims were afraid that their partners would be poorly treated by the police and the courts, and in fact Aboriginal people make up a high proportion of the Canadian prison population. Hamilton and Sinclair's 1991 *Report of the Aboriginal Justice Inquiry of Manitoba* found that Aboriginal women were reluctant to go to police because of the lack of understanding and sensitivity in the police

response. The Native Women's Association of Canada's report (n.d.) also found that many Aboriginal women were afraid of the justice system or intimidated by it. The authors speculated that this fear may be based on Aboriginal people's history of being mistreated by the system.

Fear that their children would be taken away also prevented many Aboriginal women from phoning the police, according to three Canadian reports (Jiwani & Buhagiar, 1997; McGillivray & Comaskey, 1999; Native Women's Association of Canada, n.d.) and one American study using focus groups (Wolf et al., 2003). The 1993 Canadian Panel on Violence Against Women noted the long history of Aboriginal children being apprehended by child protection authorities.

The Native Women's Association of Canada (n.d.) also found that most Aboriginal women did not know their legal rights in domestic violence situations. This lack of knowledge may be related to language and cultural issues and women's isolation in their communities, both rural and urban.

Aboriginal women were also afraid of bringing public shame on their families or being ostracized from their families and communities, according to several Canadian reports (Canadian Panel on Violence Against Women, 1993; LaRocque, 1995; The Native Women's Association of Canada, n.d.). The Native Women's Association of Canada (n.d.) found that women did not report violence because of pressure from their families and communities to keep their families together and resolve problems privately. LaRocque (1995) stated that victims feared humiliation and intimidation from their families who expected them to keep quiet. For many Aboriginal women their families are their only means of financial and social support, so pressures from family and community and the fear of being ostracized are strong influences, according to the Canadian Panel on Violence Against Women (1993) and the Native Women's Association of Canada (n.d.). Jiwani and Buhagiar (1997), based on their interviews with 47 service providers in British Columbia, reported that if Aboriginal women broke ties with their abusers they risked losing connection with their culture. McGillivray and Comaskey (1999) also found that Aboriginal communities pressure women not to report male abusers because of the already high number of Aboriginal people in jail.

4.1.3 Why Immigrant and Refugee Women Choose Not to Involve the Police

Most studies of immigrant women's issues with respect to the justice system referred to in this document are Canadian. Many of them used interviews with service providers rather than victims because of language barriers.

As noted earlier, immigrant and refugee women reported abuse to the police at a lower rate than other women, despite often experiencing higher rates of abuse than other groups. Immigrant and visible minority women shared many of the difficulties of other abused women which impacted whether they call the police, such as fear of the abuser (Martin & Mosher, 1995). But, in addition, they faced other barriers in accessing the justice system related to their immigrant or refugee status. Canadian researchers (Dosanjh, Deo & Sidhu, 1994; Martin & Mosher, 1995) concluded that, as with non-immigrant women, a combination of factors prevented immigrant women from reporting violence.

Discrimination, racism, and barriers to accessing services are some of the difficulties faced by abused immigrant women, as noted in Mann's (1995) Canadian article. Hyman,

Forte, Du Mont, Romans, and Cohen (2006) found that immigrant women who had been in Canada for longer than ten years were less likely than newcomers (0-9 years) to report incidents of abuse. The women who did not report violence cited many potential reasons for not, including a lack of information/availability of resources, fear of losing their children and/or partner, fear of stigma, and shame/embarrassment. Further adding to these difficulties are the multiple losses that immigrant women have experienced: losing family, friends, status, and work. In addition, they can be isolated by cultural and language differences (Mann, 1995).

Immigrant women's perceptions and experiences of abuse may also be different, according to MacLeod and Shin (1990). This perspective arose from their experiences of violence and oppression in their country of origin and the high value placed on the family and the community in non-Western cultures. Miedema and Wachholz (1998) also reported that in some non-Western cultures violence is part of the culture and more accepted than in Western society.

According to Tutty, Thurston, Christensen and Eisener (2004), women who immigrate or are refugees to Canada face multiple issues beyond what abused women experience in the 'mainstream' society. These issues include power and racism in the larger culture (Mann, 1995; Jasinski, Asdigian, & Kaufman Kantor, 1997), isolation (MacLeod & Shin, 1990; Mehotra, 1999), loss of informal supports such as family of origin and loss of work (Anderson, 1993; Jasinski, et al., 1997). Domestic abuse may not be perpetrated solely from the man in the family, but from his family or extended family members, and the larger community may encourage silence (Fernandez, 1997; Haj-Yahia, 2000), further solidifying social isolation.

Further, though, it is misleading to assume similarities within various cultural groups. Studies frequently describe the 'Asian population', when this designation actually includes several groups (i.e., Koreans, Cambodians, and Japanese), within which there is tremendous variability. It is important to note the importance that class, education, gender, and immigration status can play in any work with such populations (Yoshioka, Dinoia, & Ullah, 2001).

The Canadian Panel on Violence Against Women (1993) found that many immigrant and refugee women were pressured by their family and community to keep violence secret. In three Canadian studies (MacLeod & Shin, 1990; Martin & Mosher, 1995; Miedema & Wachholz, 1998) victims said that it would bring shame to their families to leave their husbands or report violence to the police. Compared to most other cultures, Western society places great value on the individual (Maitra, 1996; Rittman, Kuzmeskus, & Flum, 1999). Elsewhere, values tend to be more related to what is best for the community and for the family (Ho, 1990; Phinney, Ong, & Madden, 2000). Most cultures also stress that women attend and be subservient to the status and emotional health of their husbands (Barbee, 1992; Lira & Koss, 1999). Thus, it is more difficult for immigrant women to consider leaving an abusive relationship, because this could bring shame to the family and the community.

In some cultures, a woman may be ostracized by her community for calling the police, as noted in Canadian studies (MacLeod & Shin, 1990; Martin & Mosher, 1995; Pratt, 1995; Smith, 2004), especially if her abuser was deported because of a domestic violence conviction (Epstein, 1999). As Mann (1995) reported, many immigrant women are heavily

dependent on any extended family they have in Canada and strongly identify with their ethnic community, so they would not want to jeopardize these connections. In the Arab Muslim community in London, Ontario, though women were not ostracized for reporting violence, some women were afraid of losing status in their community if they contacted outside agencies (Baobid, 2002). For Vietnamese American women, Buzawa and Buzawa (2003) reported that the risk of community shaming means women often do not report abusive incidents.

Many immigrant women were afraid their marriage would end if they reported violence to the police (Bui, 2004; Miedema & Wachholz, 1998). Women from many non-Western cultures have a strong belief that they should preserve their marriage no matter what (Miedema & Wachholz, 1998; Pratt, 1995).

Traditional ways of working out marital problems, through family, community or the church, are the first choice of many immigrant women, rather than going to police, according to three Canadian studies (Baobid, 2002; Miedema & Wachholz, 1998; Pratt, 1995). Baobid (2002), based on interviews with members of the Arab Muslim community in London, Ontario and staff of agencies serving abused women, reported that most women in that community only contacted police as a last resort, after trying to get help from family and friends. According to service providers in Pratt's (1995) study, immigrant women assume using the justice system will make conflict resolution through the family impossible.

Women worried about calling police because of the impact on their children if the marriage ended, several Canadian researchers found (Dosanjh, et al., 1994; MacLeod & Shin, 1990; Mahas, 2000, cited in Russell, 2002b; Miedema & Wachholz, 1998). In three of these studies (MacLeod & Shin, 1990; Mahas, 2000, cited in Russell, 2002b; Miedema & Wachholz, 1998) the women were concerned about depriving their children of a parent and in MacLeod and Shin (1990) women thought that a divorce would jeopardize their children's future.

Social and economic dependence on their husbands was another important reason that immigrant women may be reluctant to contact police, which many of them assumed would lead to separation or divorce (Dosanjh, et al., 1994; Mann, 1995). Language and cultural differences made it hard for immigrant women to make connections and find support from people outside their family and community. In Dosanjh and colleague's (1994) study, some of the 15 Canadian South Asian women interviewed did not report violence to the police because they had no supports other than their husbands. Mann (1995) reported that, as well as losing the support of their husbands, women might be afraid of losing the support of their husband's family or their cultural community.

Many studies, most of them Canadian (Bui, 2004; Canadian Panel on Violence Against Women, 1993; Dosanjh, et al., 1994; Flynn & Crawford, 1998; MacLeod & Shin, 1990; Mahas, 2000, cited in Russell, 2002b; Martin & Mosher, 1995; Miedema & Wachholz, 1998; Pratt, 1995; Smith, 2004), reported that women are economically dependent on their husbands and fear losing this economic support. Immigrant women faced many barriers to finding work (Canadian Panel on Violence Against Women, 1993; Flynn & Crawford, 1998; Mann, 1995; Martin & Mosher, 1995). Mann (1995) reported that immigrant women can only get low paying jobs because they do not speak English, they lack Canadian work experience, their training is often not recognized, or they may be discriminated against.

Smith (2004) and MacLeod and Shin (1990) said that a further barrier was not having culturally sensitive services in their own language which could help them get a good job or apply for housing. Women who came to Canada as immigrants sponsored by their husbands had even fewer options because they were not be eligible for subsidized housing or welfare if the marriage ended, noted by Miedema and Wachholz (1998) and Smith (2004).

Not having information about the justice system in Canada is another barrier to accessing the justice system faced by immigrant women. Many new immigrants and refugees, are not aware of the laws related to wife assault and do not know how to access the criminal justice system, though they are supposed to get that information when they first come to Canada, according to several Canadian reports (Baobid, 2002; Canadian Panel on Violence Against Women, 1993; Chambers, 1998; MacLeod & Shin, 1990; Miedema & Wachholz, 1998; Pratt, 1995; Smith, 2004). Many women in Miedema and Wachholz's 1998 study said that their husbands did not know the law either. Some of the women were not even aware that Canadian police would intervene in abuse. However, in Bui's 2004 study, reporting on a survey of 440 Vietnamese Americans in four communities in the United States, almost all (97%) were aware that domestic violence was illegal, though fewer (80%) were aware of mandatory arrest laws and fewer still (64%) were aware of prosecution policies.

Even when information was available, MacLeod and Shin (1993) and Russell (2002a) reported that Canadian immigrant women often did not have information in their own language about the justice system or how to access it. Many immigrant women did not speak English or French. Sidhu's (1996) British Columbia study, interviewing 22 victims and with one focus group, found that some abusers told their wives that they did not need to learn English or did not allow them to take English classes.

Some immigrant women did not report abuse to police because of a language barrier, as noted in several reports, both Canadian and American (Baobid, 2002; Canadian Panel on Violence Against Women, 1993; Dosanjh, et al., 1994; Gillis et al., 2006; Martin & Mosher, 1995; Russell, 2002a; Smith, 2004; Wiist & McFarlane, 1998; Wolf et al., 2003). Smith's (2004) report, based on focus groups with service providers and key informant interviews, said that without English some immigrant women could not even phone 9-1-1. In Wiist and McFarlane's (1998) study of 329 pregnant abused Hispanic American women, many of them unilingual Spanish speakers, only one-quarter (23%) had used the police in the past year. The researchers believed that an important factor in their not reporting violence was not speaking English. Translation services were usually not available when police came to an incident, as reported in several Canadian studies and one American study (Bui, 2004, U.S.; Canadian Panel on Violence Against Women, 1993; Pratt, 1995; Russell, 2002a).

Immigrants and refugees who are not yet permanent residents may be afraid of their husbands being deported and problems with their own immigrant status if they report domestic violence (Bui, 2004, U.S; Chambers, 1998; Currie, 1995; Flynn & Crawford, 1998; Jiwani & Buhagiar, 1997; MacLeod & Shin, 1990; Martin & Mosher, 1995; Miedema & Wachholz, 1998; Pratt, 1995; Smith, 2004). Pratt (1995) interviewed Coomarasamy, a community legal worker in Toronto working with immigrant women, who thought that one of an immigrant woman's greatest fears about reporting violence to the police was the potential impact of the criminal justice system on her husband's immigration status. If the abuser is deported, the woman fears she will be deported also. For a woman whose

immigration to Canada is sponsored by her husband, she risks being deported if her husband withdraws his sponsorship (Mann, 1995; Martin & Mosher, 1995; Miedema & Wachholz, 1998; Pratt, 1995).

In a study based on interviews with service providers to immigrant and refugee women across Canada, MacLeod and Shin (1990) noted that deportation does not usually happen in these cases, but if women think deportation is a possibility they may not report abuse. As well, a husband may tell his wife that she could be deported if she reports the violence, as reported in several Canadian studies (Martin & Mosher, 1995; Miedema & Wachholz, 1998; Pratt, 1995; Smith, 2004). This finding that women fear reporting violence because of the possibility of deportation was replicated in a study of Hispanic women living in Toronto (McDonald & Cross, 2001). However, this study also found that the women did not hesitate to contact the police if the violence they were experiencing became severe and/or if their children became involved. Thus, while the threat of deportation may be a deterrent for some women in reporting to the police, other factors may also impact their willingness, such as severity of abuse and the involvement of their children.

Two Canadian studies, Mahas (2000, cited in Russell, 2002b) and Smith (2004) found that a major reason that immigrant women were reluctant to call police was fear of the police or not trusting the police. Many victims did not trust police because of negative experiences with the police and the courts in their country of origin, where police were repressive and corrupt, according to several Canadian studies and one American study (Bui, 2004; MacLeod & Shin, 1990; Mann, 1995; Miedema & Wachholz, 1998; Pratt, 1995). Refugees especially may have had negative experiences with police. In three Canadian reports (Baobid, 2002; Currie, 1995; Martin & Mosher, 1995; Pratt, 1995), immigrant women were afraid that the police might contact child protection services, another intrusion of the state into their lives, and bringing with it the risk of losing their children.

Racist attitudes were another fear of immigrants and refugees victims. Many women were afraid that their partner would be discriminated against by police and treated more harshly than a White person, in a number of studies, both Canadian and American (Landau, 1998; Miedema & Wachholz, 1998; Mahas, 2000, cited in Russell, 2002b; Martin & Mosher, 1995; Pratt, 1995; Smith, 2004; Wolf et al., 2003). In Pratt's (1995) study, Coomarasamy, a community legal worker in Toronto, said that one of the major reasons women did not report abuse to police is that they did not trust the justice system to be fair in how it punished their partner. Some immigrant women were afraid that they would not be treated well themselves, according to service providers and other key informants in Smith's (2004) Canadian study. Canadian researchers, MacLeod and Shin (1990) reported that many women had experienced racist treatment from the criminal justice system.

Racism was also a reason that women from visible minorities who were not immigrants or refugees were reluctant to use the justice system. Canadian Caribbean researchers Flynn and Crawford (1998) said that the main reason Black women did not want police involved is that they feared the police would be racist toward their partners. Bent-Goodley (2001), in her literature review of studies of African-American abused women, cited four that concluded that some victims were reluctant to call police because they were afraid that their Black partners would be treated more harshly by the legal system. In Wilson's (1998) Canadian study, two respondents who were Black and whose partners were Black thought race played a part in the police response, though most of the respondents who were

members of a minority group, most of them Black, were happy with how their case was handled.

Ammar, Orloff, Dutton, and Aguilar-Hass (2005), interviewed 230 Latina women who had experienced domestic violence. They found that even if these women transcended all of the above mentioned barriers and reported abuse to the police that they were often treated with a lack of cultural sensitivity and were concerned about language barriers and low rates of arrest. In the following section, factors that motivate, rather than deter, women from reporting domestic violence to the police are explored.

4.2 What Motivates Victims to Report to the Police?

As mentioned above, though a high proportion of victims do not call police, many women do call and the proportion of calls is increasing. A Canadian report by the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation (2003) suggested that the increase is due to:

- increased confidence in the justice system's effectiveness in dealing with domestic violence;
- more awareness of services for victims of domestic violence;
- less "social stigma" attached to domestic violence;
- changes in police reporting practices; and
- awareness that spousal abuse is illegal.

Some Canadian, British and American researchers, detailed below, asked victims what motivated them to contact the police and what they wanted from the police. Knowing what victims wish can help the police respond in ways that encourage victims to call.

Across studies, when the victims were asked what they wanted from the police or why they had called, their most frequent response was that they wanted the police to protect them in the short term or that they were afraid of the offender (Felson et al., 2002; Lewis et al., 2000; MacLeod, 1980; MacLeod, 1987; MacLeod & Picard, 1989; Prairie Research Associates, 1994; Roberts, 1996). A similar response was given by most of the intimate partner abuse victims who responded to Statistics Canada's General Social Survey (1999), who said they called to stop the violence or for protection (93% of women and 79% of men) (Mihorean et al., 2001). As mentioned earlier, in an American study using the U.S. National Crime Victimization Survey (Felson et al., 2002), fear of the partner assaulting again was a more frequently given reason for reporting an incident than fear of reprisal was for not reporting. In McGillivray and Comaskey's (1999) Canadian study interviewing 26 Aboriginal women, most called police because they feared for their safety and the safety of their children. Marshall (1995) also reported that women sometimes phone the police because they fear the abuser will turn on the children.

Bonomi, Holt, Martin, and Thompson (2006) wanted to investigate whether or not severity of abuse would impact women's reporting. For the 431 women who were surveyed, they found that those with more severe physical or psychological injuries were more likely to contact police than other women. In total, 211 of the participants had contacted police. Bonomi et al. found that women made 96% more calls to police if there was a weapon

involved in the incident and made 40% more calls if they experienced severe physical abuse. Thus, severity of abuse and fear of future abuse are two major reasons why women contact police. It is also important to explore what women's expectations from the police are.

In several studies, over half the respondents wanted their partners charged or arrested, but a large minority did not want charging or arrest (Hoyle & Sanders, 2000; Jaffe & Burris, 1984; Landau, 2000, cited in Brown, 2000; Prairie Research Associates, 1994; Roberts, 1996). In the Statistics Canada 1999 General Social Survey, just under half the women victims (48%) and only one-third of male victims (34%) called the police because they wanted their spouse arrested or punished (Mihorean et al., 2001). Roberts' 1996 Yukon study found that 30% of the 46 respondents (57 women were interviewed but only 46 answered this question) did not want their spouse charged.

In both MacLeod's (1987) Canadian and Hoyle and Sanders' (2000) British study, most victims simply wanted the violence to stop and have their partner removed; they did not want long-term involvement with the legal system. Most of those who wanted arrest in Hoyle and Sander's study did not want prosecution and many only wanted arrest if that was needed to get the perpetrator removed. In Lyon's (2002) American study, 60 women were interviewed at the time of the incident. Almost half (47%) of them wanted police to arrest their partner and 22% wanted the perpetrator removed, not arrested. Similar results were found in a study done by Johnson (2007) who found that many women called the police in an effort to have the abuse stop, but did not actually want to see their partners arrested. Johnson pointed out that often police intervention may not be in accordance with the victim's wishes, which may impact the likelihood of them contacting the police in the future.

In contrast, two other Canadian studies and an American study reported a smaller proportion of victims who wanted their partner arrested. In Wilson's study (1998), of 18 victims interviewed, only about one-third (6) of victims wanted their partner arrested, another third (6) wanted him removed or calmed down and the other third (6) did not know what they had wanted at the time. Similarly, in a London, Ontario study from the early 1980s (Jaffe & Burris, 1984), while a majority of the 73 victims (61%) wanted the police to lay assault charges, only about one-third (30%) wanted their partner arrested, and another third (29%) simply wanted their partner removed.

Another Canadian study by MacLeod and Picard (1989) found that most of the 40 women interviewed did not want their partner charged or arrested and had not realized that would happen as a result of contacting the police. In Hirschel and Hutchison's (2003) American study, under one-third of the 354 women wanted arrest (30%) and over two-thirds (70%) just wanted him taken away. Those most likely to want arrest were: Black women, women living at poverty level, women who had been more frequently hit in past 6 months, and women whose partner had an arrest record. Researchers also found that the victims who wanted the offender arrested were those who were more likely to be re-victimized. In McGillivray and Comaskey's (1999) Canadian study, what most of the 26 Aboriginal women wanted was for police to take their partner away, though many said that they wanted him charged.

Several studies of immigrant women's attitudes toward police and the justice system found that women generally did not want their partner charged or arrested. In Martin and Mosher's (1995) Canadian study interviewing 11 Latin American women who had

immigrated from Latin American, researchers found that those immigrant women were opposed to mandatory charging and no-drop prosecution because of their concern to keep the family unit intact. The service providers working with the Toronto Somali community who Pratt (1995) interviewed, said that most women in that community do not want their husband to be charged and prosecuted. They also said that many immigrant women are not aware of pro-arrest, no-drop policies, but as awareness grows, victims may be more reluctant to call. In a Canadian study (Pratt, 1995) and an American study (Bui, 2004), both interviewing staff who assist immigrant women with legal issues, respondents said victims only call 911 when the abuse is very severe and even then they just want the violence to stop and police to remove the abuser, they do not want to get involved with the legal system.

What victims wanted from the justice system depended on their situation and might change over time. According to Buzawa and Buzawa (2003), victims' goals vary. Some may not want to leave the relationship or some have already left. This may be the first incident of abuse or there may have been repeated abuse. Lewis et al. (2000) from Great Britain found that what a woman wanted from the system sometimes changed over time. At their first contact they may have only wanted the police to intervene for their immediate safety but later they may want to have their partner charged and prosecuted. In Robert's (1996) Yukon study, some victims had not reported previous violence, but decided to report the most recent assault for a variety of reasons: it was more serious than the previous violence, their attitude had changed towards the violence or they were concerned about how the violence was affecting their children.

4.3 Do Women Support Mandatory Charging and Arrest Policies?

Since the early 1980s, police forces across Canada have adopted pro-charging or mandatory charging policies (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003). With mandatory charging, police officers automatically charge abusers in any domestic violence call. Many jurisdictions in the U.S. have mandatory arrest policies (Buzawa & Buzawa, 1996, cited in Smith, 2000). A number of studies, both Canadian and American, have asked victims for their opinions about mandatory charging and arrest policies. It is important to know what victims think of these policies because if they are opposed to them, they may choose not to report violence to the police.

Researchers who ask victims their opinions about mandatory charging and arrest policies report that most women support these innovations (Lyon, 2002, US; Martin, 1997; Plecas, Seggar, & Marsland, 2000, cited in Brown, 2000; Prairie Research Associates, 1994; Roberts, 1996; Wilson, 1998). An American researcher (Smith, 2000; 2001) similarly concluded that most victims of domestic violence supported mandatory arrest laws (75%), though a minority (13%) did not. In two Canadian studies, most women (over 80%) thought that the police should charge the offender even if the woman did not want charges laid (Prairie Research Associates, 1994; Roberts, 1996). Most victims in three Canadian studies supported the mandatory charging policy, even if, in their own cases, they did not want the abuser charged (Landau, 2000, cited in Brown, 2000; Prairie Research Associates., 1994; Wilson, 1998).

In two Canadian studies (Roberts, 1996; Wilson, 1998), while most respondents supported the mandatory arrest policy, their support was qualified. In Wilson's study, of the

18 victims interviewed, only a few thought that arrests deters violence. Some of the victims believed that arrest would work in some situations but not all or thought the police should arrest only in cases of severe abuse. In Roberts's study in the Yukon, half of the community respondents from the criminal justice and social service communities and more than half of those from the First Nations community thought the victim should have more say in whether charges are laid.

The reasons that victims give for supporting mandatory charging, all from Canadian studies, included the following:

- Mandatory charging takes the pressure off the victim to lay charges and the offender is less likely to hold the victim responsible for his arrest (Jaffe, Retizel, Hastings & Austin, 1991; Prairie Research Associates, 1994; Russell & Ginn, 2001).
- At the time of the incident victims may be too emotionally distressed to make decisions that are in their best interests (Wilson, 1998), including recognizing that they need time to think about their future with the abuser (Martin & Mosher, 1995).
- Assault is a crime, so charges should be laid (Prairie Research Associates, 1994).

Though two studies (Roberts, 1996; Smith, 2000; 2001) found that victims supported no-drop prosecution policies as well, there was higher support for mandatory charging and arrest. In his review of the Canadian literature on mandatory charging, Brown (2000) concluded that, although most victims were in favour of mandatory charging, what they wanted was a system that would intervene to stop the immediate violence and would give them some say in whether or not their partner was prosecuted. Ursel (1998) made a similar observation. In Winnipeg, where there has been a mandatory charging policy since 1983, victims called police at a high rate relative to other cities, apparently not discouraged by how the police were responding. Ursel argued that the alternatives to vigorous prosecution available to women in Winnipeg were a factor in reducing women's reluctance to call police.

Three Canadian studies concluded that a significant minority of women were not aware of the mandatory charging policy being used in their area. Over one-third (68 of 201) of women in a Manitoba study were not aware of the mandatory charging policy (Prairie Research Associates, 1994). Just over half the victim respondents in a Yukon study were aware of the mandatory arrest policy (Roberts, 1996). As well, in Wilson's (1998) Nova Scotian study, a few of the 18 victims were not aware of the pro-arrest policy before they called and would not have called if they had known about it.

In two studies of women immigrating to Canada, women were asked their opinion of mandatory charging and no-drop prosecution policies. In Martin and Mosher's (1995) study interviewing 11 women immigrants from Latin America, the respondents provided only weak support for these policies. Some thought that the police should lay charges in all cases, but most of these women thought that the woman should be able to drop charges. A number of the 48 women participating in Miedema and Wachholz's (1998) focus groups were opposed to mandatory arrest because they thought that arrests would do little to stop violence, but would only result in separation or divorce.

Many Aboriginal respondents were positive about the police's zero-tolerance charging policy in McGillivray and Comaskey's (1999) study in which she interviewed 26 Aboriginal women who had experienced domestic violence. Some women did comment that dual charges were not fair. In the cases where police followed through with the mandatory charging policy and laid charges, many women were relieved that the police were laying charges, so the abuser would not blame her for charging him and she would be less likely to be subject to reprisals. In Roberts' (1996) study of the Yukon, slightly more of the First Nations victims did not want their spouse charged than the non-First Nations respondents and about half of the 47 First Nations community representatives were in favour giving victims more input into whether a charge should be laid.

4.4 How Satisfied are Victims with the Police Response?

Canadian and American researchers have asked victims about their satisfaction with the police. Victims' satisfaction with the police response to a particular incident depends, in part, on how they expected police to act and what they wanted police to do. Satisfaction with the police response will likely influence whether victims report further abuse.

Victims were pleased at the quick response of police in three Canadian studies (Bradford & Bruce, 2004; Jaffe et al., 1991; Russell, 2002a) and in one American study (Brewster, 2001). In Bradford and Bruce's PEI study of domestic violence incidents occurring between 1989 and 1999, many of them rural, half of the 12 respondents who had contact with police said that the police were prompt. Most (74%) of the 90 respondents in Jaffe et al.'s 1991 Ontario study reported that the police responded quickly. Victims of stalking gave the police speed of response relatively high ratings (2.2 on a 5 point scale, with 1 the highest rating) in Brewster's American study.

But victims were concerned about how long it took the police to respond to their call for help, in several Canadian reports (Canadian Panel on Violence Against Women, 1993; Geller, 1991; Grasely et al., 1999; Lloyd, 2000; MacLeod, 1987) and two American studies (Martin, 1997a; Weisz et al., 2004). In Martin's American study, a large proportion (81%) of the 58 victims (not all women) were dissatisfied with the slow response of police. In two Canadian reports (Hamilton & Sinclair, 1991; McGillivray & Comaskey, 1999), Aboriginal women said that the police took too long to respond. Some of the 26 victims interviewed by McGillivray and Comaskey reported that the police came right away, but for others the police response was slow.

In almost all of the studies reviewed, more women were satisfied than dissatisfied with the police response, but the degree of satisfaction varied. Also, many women report being dissatisfied with some aspect of the police response, even though they may be satisfied overall (Gillis et al., 2006). The highest rates of satisfaction, with over 80% of the respondents satisfied with the police, were found in studies from the United States (Buzawa & Austin, 1993; Buzawa, Austin, Bannon, Jackson, 1992; Buzawa et al., 2000; Hotaling & Buzawa, 2003b) and one from Great Britain (Lewis et al., 2000).

Lower rates of satisfaction were found in a national incidence study using the 1993 Violence Against Women survey (Brownridge & Halli, 2001), Conway's 1987 P.E.I. study and Jaffe and Burris' 1984 London, Ontario study, with about two-thirds of the respondents (63% - 65%) satisfied or very satisfied with the police response. Other studies conducted in the United States (Apsler, Cummins & Carl, 2003; Byrne, Kilpatrick, Howley & Beatty,

1999; Finn, 2004; Fleury, 2002; Martin, 1997; Richman, 2002; Smith & Davis, 2004; Stephens & Sinden, 2000) and outside North America (Holder & Mayo, 2003, Australian; Shoham, 2000, Israeli) reported 60% to 75% of victims satisfied.

Even lower rates of satisfaction were reported in a number of Canadian and American studies. Just over half of the women (53%) responding to Canada's (1999) General Social Survey (his sample of 1,980) said that the police did a good job responding to calls (Smith, 2004). Low levels of satisfaction with the police, with about half of the respondents positive and half negative, were also reported in three Canadian studies (Bradford & Bruce, 2004; Grasely et al., 1999; Prairie Research Associates, 1994) and three American studies (Erez & Belknap, 1998; Lyon, 2002; Muraoka, 1996). In two Canadian studies, less than half of the respondents were satisfied. Geller's (1991) Saskatchewan study reported that less than one-third of women (4 out of 15) were satisfied with the police response. The Gomes et al. (2002) Alberta study, which interviewed victims of all crimes, most property-related, reported that almost half of the 45 victims had a negative overall experience with the police and only one-third had a positive experience.

Though more women were satisfied than dissatisfied with the police in almost all of these studies, even 60% to 75% is a low rate of satisfaction given respondents' tendency to rate highly. As well, these satisfaction levels indicate a large dissatisfied minority.

Abused immigrant and visibility minority women responding to Canada's (1999) General Social Survey were somewhat less positive about the police response than other women. Just under half (46% of his sample of 504) said that the police did a good job (Smith, 2004). MacLeod and Shin's 1993 Canadian study also reported that most of the abused immigrant or refugee women they interviewed were not happy with the police response, although some of the women were surprised by the support and respect they received from the police compared to the police in their country of origin. However, in Dosanjh and colleague's (1994) study of 15 Canadian South Asian women, most were satisfied with police action.

Through their consultations with Aboriginal women across Canada, the Canadian Panel on Violence against Women (1993) reported that police services in Aboriginal communities, both urban and rural, were not meeting the needs of Aboriginal women and children. A 1985 study by A.R.A. Consultants, cited in the Canadian Panel on Violence Against Women report (1993) found that 56% of Aboriginal women victims were dissatisfied or very dissatisfied with the police response.

Victims' satisfaction has increased over the years according to Canadian studies (Bradford & Bruce, 2004; Roberts, 1996; Russell & Ginn, 2001) and American studies (Lyon's 2002; Muraoka's 1996). In two studies, Jaffe and Burris (1984) and Stephens and Sinden (2000), researchers attributed an increase in victim satisfaction to the introduction of pro-arrest or mandatory arrest policies. Jaffe and Burris (1984) in their London, Ontario study reported that, in a 1979 study, before a policy was introduced encouraging police officers to lay criminal charges in cases of family violence, 47% of the victims were dissatisfied with the police. However, the 1984 study found that dissatisfaction had decreased dramatically, with only 5.5% of the 62 victims with the police response (Jaffe & Burris). In the 1984 study, women received more support from the police than the women in the 1979 study and did not feel blamed for the violence as the respondents had in the previous study.

In Stephens and Sinden's (2000) American study, nearly all of the victims had had negative experiences in the past with police. But at the most recent encounter with police, since the new mandatory arrest procedures, 71% of the 25 victims rated police attitudes and behaviours as positive.

Most respondents, 77% to 90%, said that they would call the police again if abuse occurred, as reported in Canadian studies (Jaffe et al., 1991; Plecas et al., 2000, cited in Brown, 2000) and American studies (Apsler et al., 2003; Martin, 1997; Smith & Davis, 2004; Steketee, Levery, & Keilitz, 2000). In Wilson's 1998 study, the majority of the 18 victims interviewed would call police again.

Two American studies identified the characteristics of victims who were most satisfied with the police. Hotaling and Buzawa (2003b) reported that those victims who rated the police and the justice system's response highest were those who were easiest for the police and other justice system personnel to deal with: they had experienced less severe assaults, were less likely to say whether they wanted the offender arrested or charged and were more likely to want to proceed with prosecution. Martin (1997) interviewed 58 victims of domestic violence and found that higher income victims reported more helping behaviours from the police than other victims did, while Aboriginal women reported receiving less help.

Victim satisfaction with the police response has been more extensively in the past few decades. However, Barata (2007) believed that satisfaction has, until this point, been a fairly limited construct that has been defined fairly linearly. To remedy this, Barata gave 58 women victims who had been involved with the criminal justice system a list of 72 statements that they ranked in order of their agreement with them. Based on a matrix analysis, Barata found that the women were fairly trusting of the criminal justice system, but, overall, were fairly disappointed with the response they had to their situations. It was also found that women supported treatment, as well as maximal justice, for their male perpetrators of abuse. Also, the results showed that women believed that victims should have more input into how the system operates and, thus, increase the likelihood of women accessing these services.

Russell and Light (2006) examined women's feelings of empowerment/disempowerment, a factor associated with satisfaction, after dealing with the police. In order to do this, they interviewed 63 victims about the dimensions that contributed to their sense of empowerment/disempowerment. Russell and Light (2006) found that three factors (police attitudes, situational factors, and victim characteristics) influenced whether they found the police response to be empowering or disempowering. For instance, some women thought that there was less effort put into an investigation if they had a history with the police and that this was disempowering. Other women said that a greater severity of abuse led to a greater police response, which in turn increased their feeling of empowerment. The women also felt more empowered if their partner was arrested and if the police provided them with information. Overall, a proactive police response to a domestic violence incidence was regarded as empowering by the women. Other factors that have been found to affect victims' satisfaction with the criminal justice system are discussed further in the next section.

4.4.1 Factors Affecting Victims' Satisfaction with the Police Response

A number of researchers asked victims about what aspects of the police interventions they found helpful or not helpful. In some studies, victim satisfaction was more related to

whether the police were supportive and understanding than about how the police acted (Martin, 1997; Stephens & Sinden, 2000). In other studies, the actions taken by the police were the most important factor (Grasely et al., 1999; Weisz, Canales-Portalatin & Nahan, 2004). In Buzawa et al.'s (2000) American study, based on interviews with 118 victims, victim satisfaction with the police was not related to police performance. What influenced victim satisfaction was whether victims perceived the justice system as able to prevent future abuse.

In several studies, victims reported that the police showed concern, listened to their story and believed them, including Canadian studies (Grasely et al., 1999; Roberts, 1996; Russell, 2002a) and American studies (Fleury, 2002; Martin, 1997; Muraoka 1996; Ptacek, 1999; Stephens & Sinden, 2000). In Russell's Canadian study (2002a), most victims received a respectful response and some victims were actively supported by the police. The police called their families, cared for their children while they were receiving medical attention, and provided transportation to transition houses or the hospital. In two American studies, Martin (1997) and Stephens and Sinden (2000), empathy or how much helping behavior police showed, was more important to victims than whether the police laid charges or removed the abuser.

In other studies, though a majority of the victims found the police supportive and understanding, a large minority did not (Fleury, 2002; Grasely et al., 1999; Lyon, 2002; Martin, 1997; Ptacek, 1999; Stephens & Sinden, 2000). In Bradford and Bruce's (2004) Canadian study, half of the 12 victims interviewed found the police supportive and the other half did not.

Victims were unhappy with unsupportive and unsympathetic treatment from the police in Canadian studies (Lloyd, 2000; Prairie Research Associates, 1994) and an American study of stalking (Brewster, 2001). In other studies, victims wanted the police to be more understanding or take more time to listen to victims (Jaffe et al., 1991; Wolf et al., 2003). Lloyd (2000) interviewed 26 women in Winnipeg, Manitoba and found that a large proportion of the women were dissatisfied with the police response because the police officers were "unhelpful, unsympathetic, rude, snotty, insensitive, ignorant, judgmental, and unsupportive" (Lloyd, 2000, p.11) while a good police response was associated with being "sympathetic, respectful, helpful, compassionate and nice" (Lloyd, 2000, p.11). Women in MacLeod and Picard's (1989) Canadian study wanted the police to acknowledge the strength it took to call.

For victims in three Canadian studies (Grasely et al., 1999; Law Reform Commission of Nova Scotia, 1995; Russell & Ginn, 2001) how they were treated depended on the individual officer; some of the police were very supportive, while others did not understand the victim's situation. For the one-third of respondents (36%) who had mixed experiences with the police in Grasely et al.'s (1999) study, whether the experience was positive or negative mostly depended on the communication styles of the police officers. Grasely studied a regular police unit and a specialized domestic violence unit.

Believing that female police officers responded more sympathetically, some women victims were in favour of having more woman police officers respond to domestic violence calls (Canadian Panel on Violence Against Women, 1993; Prairie Research Associates, 1994; Wolf et al., 2003). Respondents to the Canadian Panel on Violence Against Women reported

that male officers could be intimidating and believed that women police officers could deal more sensitively with a woman who was afraid and had been beaten, sexually assaulted or psychologically abused. Reporters to the panel also argued that most women could share information about sexual matters better with women police, especially women from certain cultures. In Prairie Research Associates' (1994) Manitoba study, a few women (8%, n=16), most of them victims of a more violent assault, were pleased that a woman police officer had assisted them or wished a woman officer had been at the scene. Two American studies (Byrne, et al., 1999; Fleury, 2002) found a slight association between victims being helped by a woman police officer and higher satisfaction with police services.

As Russell stated, the police responded with sympathy and respect only if they understood the dynamics of domestic violence (2002). Without this understanding, they misinterpreted victims' actions and did not take victims' concerns seriously. Victims noted that police who did not understand the dynamics of domestic violence often blamed victims for the abuse and could not understand why victims stayed in abusive relationships, in several Canadian reports and one American report (Canadian Panel on Violence Against Women, 1993; Erez & Belknap, 1998; Geller, 1991; Grasely et al., 1999; Russell & Ginn, 2001; Sidhu, 1996). In three Canadian reports (Alberta Law Reform Institute, 1995; Law Reform Commission of Nova Scotia, 1995; Russell, 2002a), victims believed that some police officers were reluctant to respond to calls from women who had called the police in the past and stayed in their abusive relationships. Victims reported that the police sided with the abuser, in several studies (Grasely et al., 1999; Lyon, 2002; Wolf et al., 2003).

Also reflecting police officers' lack of understanding of domestic violence, some officers were not aware of the safety risks to women and children and put them at greater risk, according to victims in several Canadian reports (Alberta Law Reform Institute, 1995; Canadian Panel on Violence Against Women, 1993; Grasely et al., 1999; Russell & Ginn, 2001; Sidhu, 1996). Victims responding to Russell and Ginn's (2001) study reported that some of the police officers did not seem to realize that it might be dangerous for the victim to talk when the offender was present. In Grasely et al. (1999), victims commented that abusers might retaliate if victims signed witness statements.

Police not taking their situation seriously was another common concern of victims in a number of Canadian studies (Bradford & Bruce, 2004; Grasely et al., 1999; MacLeod, 1987; Prairie Research Associates, 1994; Russell & Ginn, 2001) and American studies (Erez & Belknap, 1998; Stephens & Sinden, 2000; Wolf et al., 2003). Presenters to the Canadian Panel on Violence Against Women (1993) reported that the police did not take domestic violence seriously and were desensitized to violence. In Erez and Belknap's (1998) study, half (50%) of the 50 victims interviewed thought that the police minimized how badly they were injured.

In Erez and Belknap's (1998) American study, victims were asked if the police encouraged them to continue with prosecution. Two-fifths (43%) of the 50 victims interviewed said that the attitudes or comments of the police were encouraging and half (49%) said that the police were discouraging. Of all the criminal justice staff, including prosecutors, judges, and defence attorneys, the police offered victims the least encouragement to follow through with the case.

The police did not respond sensitively to the issues of immigrant and refugee women who had been abused, according to respondents to several Canadian reports. Presenters at the 1993 Canadian Panel on Violence Against Women reported that the police did not understand the particular needs of immigrant women. In MacLeod and Shin (1993), some of the immigrant women victims interviewed believed that the police, and people in the justice system generally, were less likely to believe and help women from different backgrounds. Reporting to Gomes et al.'s (2002) Alberta study of criminal victimization, representatives of culturally and ethnically diverse groups said that people in the criminal justice system need training to increase their sensitivity to the issues faced by immigrants and refugees.

Immigrant or refugee victims who did not speak English could not be understood by the police or let the police know what they needed (Bui, 2004; Martin & Mosher, 1995; Russell, 2002a; Sidhu, 1996). If the abuser had a better command of English than the victim did, the police might hear only his version of events (Bui, 2004; Martin & Mosher, 1995). In Martin and Mosher's (1995) Canadian study, two women said that their husbands were fluent in English and tried to convince the police that there was no problem. Bui (2004), who interviewed 34 Vietnamese American women, also found that many women did not understand information the police tried to give them about services available or legal processes.

Translation services were not available when the police came to an incident or when victims were dealing with other parts of the criminal justice system, according to several Canadian studies and one American study (Bui, 2004, U.S.; Canadian Panel on Violence Against Women, 1993; Pratt, 1995; Russell, 2002a, Canada). However, in Dosanjh, and colleague's (1994) study, based on interviews with 15 Canadian South Asian women, three women reported that the police officers who responded to their calls spoke their language.

Translators being biased and taking side against the victim was another problem reported by victims. In Gomes' (2002) Alberta study of victims of a variety of crimes, not just domestic violence, representatives of culturally and ethnically diverse groups noted that problems arose when translators belonged to victims' communities. Some translators judged victims negatively, did not communicate parts of conversations they did not agree with and gave victims advice. As well, victims' stories were sometimes spread through their communities. Participants in Miedema and Wachholz's (1998) Canadian study using focus groups with 48 women, reported that some ethnic community members condemned victims for breaking up their families. The women advised the justice system to choose interpreters carefully.

Police not understanding their particular issues and not responding sensitively was a concern of Aboriginal women victims. In Hamilton and Sinclair's (1991) *Report of the Aboriginal Justice Inquiry of Manitoba*, Aboriginal women reported that the police had a lack of understanding and sensitivity and did not take domestic violence seriously. Respondents to the Canadian Panel on Violence Against Women (1993) also commented that the police did not understand the different needs of Aboriginal women. In McGillivray and Comaskey's (1999) study, some respondents noted racist comments or actions by the police. In the same study, victims reported that some criminal justice personnel believed Aboriginal women deserved the violence or were not smart enough to leave. Aboriginal women heard more inappropriate comments from the police, both sexist and racist, than other women did, according to the Alberta Law Reform Institute (1995). In Martin's (1997) American study,

the three Aboriginal women victims interviewed reported fewer helping behaviours from the police than other victims did.

4.4.2 Overall Satisfaction with Police Interventions

In several studies, both Canadian and American, women were generally satisfied with the particular action police took. In Grasely et al.'s (1999) Canadian study, what almost one-third of the victims (30% of the 74 victims who had contact with the police) found most helpful was police removing or charging their abusers. Most (129) of the 201 respondents who had contact with the police in Prairie Research Associates' (1994) study were pleased both that a charge had been laid and with the type of charge laid, though a substantial minority (39) were not. In Russell (2002a), most of the 63 women were happy that their abuser was arrested. Even if they were opposed to the arrest at first, many of them later found that the arrest was beneficial. In Weisz et al.'s (2004) American study, in which they interviewed 242 women, the most common reason for being satisfied was that the police stopped the violence or removed the abuser. The women who were less satisfied with the police most often said that the police did not do enough to help. Most (77%) of the 58 victims in Martin's 1997 American study thought that the police took the proper action.

Victim satisfaction was higher when the police took the action that victims wished them to: arrested the abuser when they wanted him arrested or did not arrest when the victim just wanted the offender talked to or removed, according to several American studies and one Canadian study (Buzawa et al., 1992; Buzawa & Austin, 1993; Buzawa et al., 2000; Hotaling & Buzawa, 2003b; Russell, 2002a). The 110 victims interviewed for Buzawa and Austin's (1993) study, had a high rate (85%) of satisfaction with the police and what satisfied victims most about the police response was that the police acted the way victims preferred. In fact, researchers found that in a large proportion of cases the victim's preference seemed to influence the action the police took. As well, when victims' preference was for arrest, officers generally made the arrest even if there was no visible injury. Minaker (2001) found that women were more satisfied with police when there was some understanding conveyed about their situation, which happened in very few cases. Other American researchers, Apsler et al. (2003), also found that victims who wanted the police to arrest the offender gave the police a higher helpfulness rating when they made the arrest than when they did not. But surprisingly, when victims did not want an arrest, whether or not the police made the arrest, victims gave the police the same helpfulness rating.

Having a sense of control over police actions or taking part in the decision to arrest were also associated with higher victim satisfaction. In Hotaling and Buzawa's (2003) American study, victims' satisfaction was related to whether their preferences were followed, but also to whether the justice system increased victims' sense of control over what happened to them and to their case. Having this sense of control was more important to the victims than the particular actions taken by the police. Similarly, taking part in the decision to arrest was strongly related to satisfaction in two Canadian studies, one interviewing victims (Wilson, 1998) and the other interviewing service providers (Jiwani & Buhagiar, 1997). Women felt disempowered by the police having sole control over the decision about when to arrest.

Ford's (1991) American study described how abused women used the threat of laying charges as a way to restore the power imbalance in their relationships. Ursel (1998) also argued that some women use the criminal justice system strategically, "as bargaining tools

and tactics to help them survive abusive relationships” (Ursel, 1998, p. 79). As well, McGillivray and Comaskey’s (1999) study of Canadian Aboriginal women found that women used charges as a threat to gain power in their relationships.

Lack of police action was a major reason for victim dissatisfaction in some studies, including two Canadian studies Geller (1991) and MacLeod (1987). In several other studies, victims were dissatisfied because the batterer was not arrested or charges were not laid (Jaffe et al., 1991; Law Reform Commission of Nova Scotia, 1995; Russell, 2002a; Wolf et al., 2003). In Russell’s (2002a) Canadian study, when the police failed to arrest, more often when protection orders were breached than in cases of assault, victims lost faith in the police response. In the Law Reform Commission of Nova Scotia’s (1995) public consultation, service providers and victims of domestic violence reported that the police only laid charges if the assault was severe and they rarely arrested the offender or kept him in jail, even overnight. For some of the women in Lewis et al.’s (2000) British study, if they called the police and the police did not act, the abuse was worse.

Mandatory charging has not been applied consistently, according to several Canadian reports (Canadian Panel on Violence Against Women, 1993; Jiwani & Buhagiar, 1997; Russell & Ginn, 2001). In Jiwani and Buhagiar’s 1997 study, of 47 front-line workers and coordinators interviewed, only half (53%) reported that the police were implementing mandatory arrest. According to most of the respondents (89%), as a result of this inconsistent police action women did not feel supported and were not contacting the police. The 1993 Canadian Panel on Violence Against Women argued that more consistent implementing of the mandatory charging policy is needed so that women know what to expect when they engage the criminal justice system and men know what the consequences of spouse abuse will be.

Victims reported that the police were not willing to act unless there was physical proof of violence, in two Canadian studies (Alberta Law Reform Institute, 1995; Grasley et al., 1999). In the 1995 Alberta Law Reform Institute study, some women victims were not able to get convincing physical evidence, even though the abuse was severe. Victims noted that prosecutors and judges, as well as the police, wanted physical proofs of abuse.

Police not investigating cases of domestic assault thoroughly or not collecting evidence were concerns expressed by some victims. Two-thirds (66%) of the 50 victims interviewed in Erez and Belknap’s (1998) American study reported that the police did not collect any evidence. In Russell’s (2002a) Canadian study, when police officers did not make notes, take photographs or record evidence of injuries or bruising, women felt that their complaints were not taken seriously. Victims in Russell’s study argued that this evidence is needed because, with the pressure of being challenged in court, the years of abuse, and having to testify in front of the abuser, their evidence in court may not be strong.

The women also reported that the police did not act in cases of stalking or threats of violence, in several Canadian reports (Canadian Panel on Violence Against Women, 1993; Law Reform Commission of Nova Scotia, 1995; MacLeod & Picard, 1989; Wilson, 1998) and in an American study (Brewster, 2001). MacLeod and Picard’s 1989 study found that the police often would not act until a violent incident had occurred even though women could reliably predict violence. Victims reported to the 1993 Canadian Panel on Violence Against Women that in cases where violence was threatened but had not yet occurred, the police told

victims to call when something happened or charged the abusers with a minor offence. In Russell and Ginn's (2001) study, victims were concerned that the police seemed reluctant to charge under the criminal harassment provisions of the criminal code. Also in Brewster's (2001) American Study, many women victims of stalking were frustrated at the lack of police action and the police not taking stalking seriously.

4.4.3 Dual-charging, No Contact Orders, and Child Protection

However, the police charging victims with assault, commonly called cross-charging or dual charging, was a significant concern of victims and service providers in both Canadian (Jiwani & Buhagiar, 1997; Russell & Ginn, 2001) and American studies (Lyon, 2002; Wolf et al., 2003). In Coulter, Kuehnle, Byers and Alfonso's (1999) American study, in which researchers interviewed 498 women (police were involved with 287 of those women), four victims were arrested; two of whom stated that they had acted in self-defence. One victim in Coulter's et al.' (1999) study disclosed that police officers threatened to arrest her. Two studies (Bui, 2004; Smith, 2004) noted that immigrant women were being charged with domestic violence or their partners or the police were threatening them with laying charges.

In her study of Vietnamese-Americans, Bui (2004) reported that men used domestic violence laws to control their partners. In McGillivray and Comaskey's (1999) study, based on interviews with 26 Canadian Aboriginal women, some women thought that dual charging was not fair and might lead to reluctance to phone the police. Another concern for women who are dual charged is confusion over their identity as perpetrator or victim (Rajah, Frye, & Haviland, 2006). For some of the women who were interviewed by Rajah et al., they mentioned that this had a tremendous impact on their sense of self. For instance, some women feared that they would become more involved in a criminal identity. For others, the experience disempowered them, which could have a negative effect on the likelihood that they will get the criminal justice system involved in the future.

In one Canadian study, the women commented positively about "no contact" orders placed by the police, while in two other Canadian studies, victims had mixed reactions to the orders. In Wilson's (1998) study, a few of the 18 victims interviewed said that conditions of no communication helped them end abusive relationships. In Plecas et al.'s study (cited in Brown, 2000), most victims (86%) supported no contact orders, however, almost half (49%) had some reservations about the conditions attached to them and almost one-third (29%) asked for their no contact order to be dropped. In Russell (2002a), another study in which victims had mixed reactions to the orders, some victims were happy that police put a peace bond in place because they did not want to prosecute their partner, but others were frustrated and angry that police used a peace bond instead of laying charges. In the same study, almost all of the 63 victims interviewed were frustrated at the lack of police response to breaches of peace bonds. A concern expressed by Crown prosecutors in MacLeod's (1995) study was that if a restraining order was in place, the victim might have difficulty paying the bills during the few months until the court case.

In two American studies, some of the women interviewed were concerned about the police contacting the child protection authorities. In Coulter et al.'s (1999) American study, one of the 287 victims interviewed who had contact with the police reported that an officer threatened to contact child protection if she called the police again. Of the 60 women Lyon (2002) interviewed, over a third (36%) had child protection involvement as a result of their

contact with the justice system. Some of the women understood why this was done, but others were angry with the police and the justice system. On the other hand, some women contact the police in order to have their children better protected from the perpetrator (Neilson, 2000). Unfortunately, Neilson found that this is not often the case, even for women whose case goes to court, as men often have the same level of access to their children as they did before.

The police were less likely to intervene in domestic violence involving Aboriginal women, according to Canadian studies (Canadian Panel on Violence Against Women report, 1993; Jiwani & Buhagiar, 1997; McGillivray & Comaskey, 1999; Russell, 2002a). A 1985 study by A.R.A. Consultants, cited in the Canadian Panel on Violence Against Women report (1993), found that 76% of the Aboriginal women surveyed believed that the police would not do anything to assist them. McGillivray and Comaskey (1999) reported that Aboriginal women who made frequent calls to the police found that the police got tired of their calls and did not respond. One woman was told she was being a nuisance. In Hamilton and Sinclair's (1991) *Aboriginal Justice Inquiry of Manitoba* report, victims noted that if the police came to the house, saw things were calm and did not intervene; after they left the violence became worse.

The police were also less likely to intervene in domestic violence involving immigrant and refugee women, according to the Canadian service providers interviewed by Jiwani and Buhagiar (1997) and Russell (2002a). Martin and Mosher's 1995 Canadian study reported that of six immigrant women who had contact with the police, in only one case was the partner charged with assault. A number of the immigrant women victims interviewed in MacLeod and Shin's (1993) Canadian study were angry that the police did not arrest their partners. As well, some of the women in MacLeod and Shin's study, most of them immigrants from Italy and Poland, were not pleased that instead of removing their partners, the police wanted the women to leave.

4.4.4 Did the Police Provide Information and Referrals?

Important for victims' satisfaction with the police response in several studies was whether the police gave them information and referrals to other services. In two Canadian studies, victims were lacking both information and referrals. In Grasely et al.'s (1999) study of a regular police unit and a specialized domestic violence unit, police referred 40% of the women who contacted them to community services. This referral rate seems low considering that London, Ontario had adopted an integrated systems approach to family violence designed to increase communication and coordination between service providers. The researchers argued that this was a higher proportion than was reported in Statistics Canada's 1993 Violence Against Women survey where only 20% of the 12,300 victims were referred to services by the police. In Russell's (2002a) Canadian study, some victims did not get any information at all from police. Some victims initially trusted the system to give them the information they needed, but later found that they had not been given important information, such as a copy of the restraining order.

Victims in several American studies were pleased about the information and referrals they got from the police; others reported that information or referrals were not adequate. The victims who were pleased said that the police: gave them useful information about options (75%, n=184) (Steketee et al., 2000) and informed them of options and services (71%, n =

25) (Stephens & Sinden, 2000). In Coulter and colleague's (1999) study, the police suggested that victims apply for protection orders, told them about shelters and even drove them there. In three other American studies, a large proportion of the victims did not receive adequate information or referrals. Weisz et al. (2004), interviewing 242 women, almost all African-American, found that almost half (42%) did not get any information or referrals from the police. (Some of the police were in precincts with special domestic violence teams, some were not). In Martin's (1997) study, just over half of the 58 respondents were told about services (55%) and court processes (53%). In Muraoka's (1996) study, the most common reason given by victims for not being satisfied with the police response was that the officer did not give them information about their options.

Women in several Canadian studies wanted more information from the police, as well as from other people in the justice system. Three Canadian reports identified information victims wanted specifically from the police and did not receive:

- whether charges had been laid (Wilson, 1998);
- what conditions were attached to peace bonds, so they would know when their partner violated them (Law Reform Commission of Nova Scotia, 1995); and
- information about shelters and other services (Canadian Panel on Violence Against Women, 1993).

Lack of information is a major barrier for immigrant women needing to access the justice system. Several Canadian researchers have asked immigrant women victims what information would help them navigate the justice system. Dosanjh, et al. (1994) and MacLeod and Shin (1993) reported that women wanted more information about the law and their rights. In MacLeod and Shin (1993), 59 of the 64 women interviewed said everyone, women, men and children, needed more information including information about wife assault laws, immigration laws related to deportation and where and how to make complaints about abuse. Landau's 1998 review of studies for the Canadian Department of Justice cited two studies, Sy and Choldin (1994), an Alberta study, and Godin (1994), which both interviewed service providers. Both of these studies found that immigrant women needed information about Canadian assault laws, what would happen if they called the police and what impact marital separation would have on their immigration status. As well, Currie's (1995) literature review reported that immigrant women wanted information about spouse abuse, the divorce process, the effects of abuse on children, social assistance and immigration.

How information was provided was also important to victims in two Canadian studies. Victims responding to Russell's (2002a) study said that information was most useful when it was given in person and was tailored to their needs. Some victims commented that most of the written materials they were given were not appropriate and difficult for them to use without some explanation. As well, because victims' needs changed over time, several contacts were needed to give them the information they needed. In Gomes et al.'s (2002) Alberta study of crime victims' experiences, victims recommended the justice system have a liaison person who victims could contact for information.

4.4.5 Did Women Feel Safer as a Result of the Police Intervention?

In a number of studies, victims were asked how satisfied they were with the outcomes of police intervention. Some researchers asked victims if they felt safer after the police response or if the police provided adequate protection. Other studies asked whether the violence stopped after the arrest.

Victims interviewed for several Canadian studies did not feel safer after police intervention. In two Canadian studies from the early 1990s, Jaffe et al. (1991) and Geller (1991), victims said that they needed more protection. In Geller's study, some of the 15 victims interviewed thought that the police should have removed the abuser or helped them find a safe place to stay. According to service providers (n = 47) interviewed for Jiwani and Buhagiar's 1997 study, victims did not think that the police could keep them safe. In Russell's (2002a) study, some victims felt unsafe when their assailants were released from jail and two women had not called police until they had moved out and found a safe place to live. One safety concern victims reported to the Alberta Law Reform Institute (1995) was not being able to get their belongings after they had left their home, though some found the police very helpful in escorting them to collect their things.

In three other studies, two American and one Australian, victims reported that they felt safer as a result of the police intervention, though in two of the studies a large minority did not. Most victims (71%) felt reasonably safe after the police left the scene of the incident in Holder and Mayo's 2003 Australian study. In Martin's 1997 study, most (76%) of the 58 victims (most of them women) were still afraid of the offender after the arrest, but three-quarters (75%) of the victims ultimately felt safer. A few (17%) of the victims in Martin's study felt less safe as a result of the arrest. In Steketee et al.'s (2000) American study, most (65%) of the 184 respondents said that the police did protect them, though 19% of the victims said that the police did not protect their safety at all and this was the area of greatest dissatisfaction for victims.

Three reports, two Canadian and one American, found that the violence decreased for at least some of the women interviewed after the police intervened. In the 1993 Canadian Violence Against Women Survey, the violence decreased or stopped after the police intervened for most (73%, 46 of the 63 victims) of the victims of intimate partner violence who answered this question (Brownridge & Halli, 2001). Two of the 26 Aboriginal women interviewed in McGillivray and Comaskey's 1999 Canadian study reported that the abuse stopped after the police charged their abuser. In Wiist and McFarlane's (1998) study of 329 pregnant abused Hispanic American women, abuse had ended for a larger proportion of the women who had used police (37% or 28 women) than for those who had not (22% or 55 women).

Other studies concluded that violence did not decrease as a result of the police being involved and some victims thought that violence actually increased after police intervention. In Wilson's (1998) Canadian study, the police arresting offenders and imposing conditions of no communication helped some victims end their relationships and so end the abuse. However, more of the 18 respondents (8 out of 18) said arrest could have provoked further violence and in some cases had provoked violence. Similarly, in Russell's (2002a) Canadian study, several women reported that the violence continued and may have escalated after the arrest. Just under half (42%) of the 242 victims interviewed for Weisz et al.'s 2004 study said

that using the justice system did not decrease the abuse or help them leave their partners. In Brewster's 2001 American study of stalking, 77% of the 187 victims interviewed reported that the police involvement had no effect or made the stalking worse.

Victims in two Canadian studies commented on the impact of their partners' arrest on their children and on their financial situation. In Wilson's (1998) Canadian study, some of the 18 women felt positive about the arrest because their children would no longer be witnessing violence. But more women in Wilson's study thought that the arrest made the situation worse for their children. For some children not having contact with their father was hard and some children blamed their mother for the arrest. Victims in both Wilson (1998) and Plecas et al. (2000, cited in Russell, 2002b) commented on their families' poor financial situation as a result of the arrest. In Plecas et al. (2000), 30% of the 74 victims interviewed said that they suffered financially as a result of their partner's arrest.

4.4.6 Women's Views of Specialized Domestic Violence Police Units

Victims were very satisfied with the response of police specialized domestic violence units in one Canadian study (Grasely et al., 1999) and several American studies (Dupree, 1999; Lane, Greenspan & Weisburd, 2004; Uekert, Miller, DuPree, Spence & Archer, 2001; Weisz et al., 2004; Whetstone, 2001). As well, respondents to the 1993 Canadian Panel on Violence Against Women thought that specially designated domestic violence units were a good idea. In Grasely et al.'s (1999) Canadian study of a specialized police domestic violence unit in London, Ontario, 83% of the 30 women who had contact with the unit were positive about the police response, but only 38% of the 74 women who had contact with the regular police unit had a uniformly positive experience. The specialized unit helped victims by: giving emotional support, spending time to listen, providing information and referrals, and advising them on safety for themselves and their children. The specialized police also advised them on how to deal with the police and the legal system.

Three American studies, which used comparison groups to evaluate the effectiveness of specialized police domestic violence units, found that the victims rated the specialized units highly. In a county that had hired two domestic violence detectives, Uekert et al. (2001) reported that 58% of respondents (n = 31) would call the police again compared with only 25% of respondents (n = 16) who would call the police again in another jurisdiction that did not have a specialized police unit. Lane et al. (2004) studied a team approach, where social workers accompanied police to domestic violence incidents and provided follow-up to victims. Respondents in the experimental group were considerably more satisfied (64%) with the police response than respondents from the control group (38%). Researchers were not sure if the greater satisfaction with the police in the experimental group was related to a difference in how the police responded or to their association with the social workers. Weisz et al.'s (2004) study, in which 242 victims were interviewed, found that the victims were equally satisfied with the police from precincts with specialized teams and the police from comparison precincts.

In another American study of police domestic violence teams by Whetstone (2001), the 45 respondents (39 women and 6 men) were also very satisfied with the police response. In the teams being evaluated, an advocate accompanied the police to all domestic violence calls and provided follow-up to the victims. Victims expressed a high satisfaction with the police officers (4.64 out of a possible rating of 5) and even higher satisfaction with the

advocates (4.68). What they most appreciated about the response of the team was that the police took domestic violence seriously and that the victim advocate helped them through the investigation and prosecution of the case. They also liked that the domestic violence team members were friendly, showed concern and helped them feel safer.

4.5 Women's Perceptions of the Prosecution Process

Prosecuting male partners for assault is generally a difficult and sometimes dangerous process for victims, and ultimately often does not improve victims' situations (Cretney & Davis, 1997, British). Yet Worden (2000) found that few studies have asked victims about their experiences using the court system or what they wanted from the courts. Knowing what victims of domestic violence want from the court system and what obstacles they face is important so that the courts can better meet victims' needs and increase the likelihood that victims will choose to contact the police when they are in danger (Ford, 1991; Lewis et al., 2000). Even if women do make contact with the justice system, they may still be reluctant to testify, which can make prosecuting their abusers difficult or impossible. Again, information is needed about the difficulties women experience in the prosecution process and what factors influence whether a woman is willing to testify, so that ways can be found to remove these obstacles (Ford, 1991; Lewis et al., 2000).

As with the mandatory or "pro" arrest policies discussed earlier, prosecutorial "no drop" policies have come into practice in most jurisdictions in Canada, the United States, Great Britain and Australia (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003). Though Canada does not have a national charging or prosecutorial policy on spousal abuse, all Canadian jurisdictions support a similar criminal justice system response with the aim to prosecute more rigorously, reduce the number of cases in which charges are withdrawn or stayed, increase victim cooperation with prosecution and reduce re-offending (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003). However, prosecution policies are not implemented the same way in all jurisdictions or even within jurisdictions (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003).

Lewis et al. (2000) found that what victims wanted from the courts was not the same for every woman and could change over time and depending on the woman's circumstances. As well, when women were deciding how to use the justice system, they considered the impact on their safety, on their partners' behaviour, on their financial situation, and on their children.

In a number of studies, what the women wanted from the court system was to prevent further violence (Ford, 1991; Holder & Mayo, 2003; Lewis et al., 2000). Victims generally looked to the police for short-term protection and to the courts for a more long-term solution (Lewis et al., 2000).

Victims in several studies did not want their partners prosecuted. In Plecas et al.'s (cited in Brown, 2000) study in Abbotsford B.C, 40% of the 74 victims interviewed did not want the offender prosecuted. In both MacLeod's 1987 Canadian study and Hoyle and Sanders' 2000 British study, most victims did not want long-term involvement with the legal system; they simply wanted the violence to stop or to have their partner removed. Hoyle and Sanders found that most of those who wanted their partner arrested did not want prosecution.

Many of the abused women in Roberts' 1996 Yukon study believed that prosecution would not meet their needs; they just wanted to be heard and have the abuse acknowledged by the criminal justice system. In Buzawa et al.'s (2000) American study, of the 118 victims interviewed, 37% wanted the charges dropped and 14% wanted the charges lowered. Almost half of the 50 victims (48%) in Erez and Belknap's (1998) American study stated that they did not want to proceed with the prosecution. Victims gave a number of reasons for not wanting their partners prosecuted:

- the abuse was not serious or re-abuse was not likely (Buzawa et al., 2000; Holder & Mayo, 2003; Weisz et al., 2004; Weisz, 2002);
- they did not want to end the relationship or wanted to reconcile with the offender (Hoyle & Sanders, 2000; Lyon, 2002, US; Plecas et al., 2000, cited in Brown, 2000);
- concern about their safety (Erez & Belknap, 1998);
- concern about the impact on their children (Bennett et al., 1999; Erez & Belknap, 1998);
- they did not want their partner jailed (Bennett et al., 1999); and
- economic hardship (Bennett et al., 1999).

In other studies women wanted to proceed with prosecution. Among the 26 Aboriginal women interviewed by McGillivray and Comaskey (1999), in the few cases where charges were dropped or stayed, the women commented that it would have been better in the long term to have proceeded with prosecution. In Weisz et al.'s (2004) study, two-thirds (65%) of the 242 African-American respondents wanted prosecutors to proceed with the charges against their partners. American researcher Fleury (2002) found that most of the 178 victims interviewed for her study wanted a conviction and very few women attempted to drop charges, though most were pressured to do so by their assailants. Some reasons victims gave for wanting prosecution were: to punish the abuser (Ford 1991); to give the abuser the message that abuse is unacceptable (Holder & Mayo, 2003, Australia; Weisz et al., 2004; Weisz, 2002) and to get support payments (Ford 1991).

Based on interviews with 242 African American women, Weisz (2002) identified characteristics of those victims most likely to favour prosecution:

- the abuse had been more severe in the past six months,
- their partner had been abusing them longer,
- the women thought that there was a high risk of future abuse,
- the abuser was using drugs or alcohol during the violent incidents and
- they were currently separated from the abuser.

Many Aboriginal women do not follow through by testifying against their partner after he has been charged, according to a Native Women's Association of Canada report (n.d.) based on 240 interviews with police, court staff and staff of Aboriginal-run justice projects. The reasons the respondents gave were: shame, high tolerance for abuse in their

communities, a community belief that they should keep the family together, and lack of information about their legal rights.

Immigrant and refugee women generally did not wish their partner charged or prosecuted, according to Canadian and American studies (Buzawa & Buzawa, 2003; Currie, 1995; Miedema & Wachholz, 1998; Pratt, 1995). Service providers working with the Toronto Somali community interviewed by Pratt (1995) stated that most women in that community did not want their husbands charged and prosecuted. They noted that victims only called 911 when the abuse was severe and even then, the women simply wanted the violence to stop and the police to remove the abuser; they did not wish to become involved with the legal system. Sometimes, as noted by Currie (1995), immigrant women were concerned that prosecution would lead to surveillance by immigration or child welfare authorities. Immigrant women have a strong and reasonable fear of deportation if such authorities are involved (Buzawa & Buzawa, 2003). Immigrant women in Canada risk deportation as the abuser can withdraw his sponsorship if the marriage breaks down (Martin & Mosher, 1995). In Miedema and Wachholz's (1998) study, with mandatory prosecution policies in place, immigrant women felt that they lost control of their case when they involved the criminal justice system.

Whether individual women wanted prosecution depended on their situation and could change over time. Lewis et al. (2000) from Great Britain, based on interviews with 142 victims, concluded that at their first contact some women only wanted the police to intervene for their immediate safety, but later they might want to have their partner charged and prosecuted. Buzawa and Buzawa (2003) argued that if a woman has left her abuser and successfully settled finances and custody with him, she may not see a need to proceed with prosecution. She may even be afraid that the prosecution process could cause a breakdown in the custody or child support arrangements she has so carefully made.

Some women use legal intervention as a lever or threat to influence their partners' behaviour and to gain power in the relationship, as noted by several authors (Buzawa & Buzawa, 2003; Ford, 1991; Landau, 2000; MacLeod, 1987; Ursel, 1998; Wittner, 1998). Ursel (1998) argued that some women use the criminal justice system strategically, "as bargaining tools and tactics to help them survive abusive relationships" (Ursel, 1998, 79). Landau (2000), interviewing 94 women in Ontario communities, explained that no-drop prosecution policies thwart women's use of charging as a way to gain power in their relationships because they are not able to drop charges when they have accomplished their goals. If victims can get the results they want without proceeding with prosecution, for example if the abuser agrees to go for treatment or stops the abuse, most would prefer to drop the charges.

Even if women wanted their partners prosecuted, they might not wish to testify against them in court. In Roberts' (1996) Yukon study, 78% of victims did not want to testify or go to court at all. The percentage was higher for First Nations women. In the Manitoba Spouse Abuse Tracking Project (Prairie Research Associates, 1994), of the 201 victims interviewed, 30% reported that their cases were stayed, over half of those because the victim refused to testify.

Studies have identified several factors related to women not wanting to take part in the prosecution. A major factor was the severity of the abuse in two American studies (Dutton, Goodman & Bennett, 1999; Goodman, Bennett & Dutton, 1999). Dutton et al.

(1999) (n = 149) speculated that the women with more severe physical abuse and injuries might be more willing to participate in the prosecution because the courts gave them more encouragement to continue with prosecution. Other factors related to victims being more likely to cooperate with prosecution, identified in Goodman et al.'s (1999) study (n = 92), were receiving social support from friends and family; having children in common with the abuser and having material support, such as child care, transportation or emergency money.

As well, these researchers found that victims with a substance abuse problem were less likely to follow through with prosecution. Dawson and Dinovitzer's (2001) study in a specialized court in Toronto, Canada, based on a review of court files and files kept by the Victim Assistance program, found that victims were more likely to testify if they had met with the victim/witness service and video-taped testimony was available. Ursel (1995b) argued that reluctance to testify is rooted in our cultural myths such as masculinity means aggressive and femininity means passive and in our economic system which relegates women to low paying jobs so they cannot afford to leave abusive relationships.

One reason that victims often give for not wanting to testify was fear of the offender (Alberta Law Reform Institute, 1995; Epstein, 1999; Erez & Belknap, 1998; Holder & Mayo, 2003; Prairie Research Associates, 1994; Ptacek, 1999; Weisz, Tolman & Bennett, 1998; Wittner, 1998). In some cases, victims feared that the defendant would retaliate if they testified (Alberta Law Reform Institute, 1995; Ptacek, 1999). In Plecas et al.'s (2000, cited in Russell, 2002b) Abbotsford research, very few victims (4%) did not want to cooperate with prosecution because they were afraid of the offender, but most who were reticent had partners with a previous criminal record of violence or had higher risk assessment scores. In Erez and Belknap's 1998 American study, the most significant reason that women gave for not wanting to testify was fear of the abuser. In contrast, in her later summary of several Justice Canada studies, Landau noted that, in the opinion of Crown prosecutors, the most common reasons women were reluctant to testify wanted to continue with the relationship or not wanting their partner to go to jail, more than fear of the abuser or economic dependence (1998).

4.5.1 What Sentences Do Women Want for their Partners?

Several Canadian studies found that a majority of victims favoured jail terms for offenders (Alberta Law Reform Institute, 1995; Law Reform Commission of Nova Scotia, 1995; McGillivray & Comaskey, 1999; Russell & Ginn, 2001). In the Alberta Law Reform Institute's report (1995), women were of the belief that sending the offender to jail was the best response, not as punishment, but to give women time to rebuild their lives and find a secure place to live without the offenders' presence. In McGillivray and Comaskey's (1999) study, most (20 of 26) of the Aboriginal women considered prison as a good way to deal with abusers and half thought there should be longer sentences. The women supported jail terms because that would give abusers a clear message that the abuse was wrong, as well as increasing women's safety and giving them time to heal. However, in MacLeod's (1995) study, the 20 Crown Prosecutors were of the opinion that most women would rather not go through the full court process, even if that meant the offender was given a lighter sentence. In Lewis et al.'s 2000 British study, victims did not want their abusers to be punished. They were more concerned about being protected, preventing further abuse and the abuser receiving treatment.

In several studies, women were in favour of court-mandated counselling (Ames & Dunham, 2002; Bennett et al., 1999; Ford, 1991; Geller, 1991; Hoyle & Sanders, 2000; Lewis et al., 2000; McGillivray & Comaskey, 1999; Wittner, 1998). Respondents to the Law Reform Commission of Nova Scotia (1995) thought that court-mandated counselling should be part of all sentences. In the Alberta Law Reform Institute's (1995) study, attitudes to counselling were mixed: some women thought that short-term court-mandated counselling was useless in stopping abuse; others thought it could be very helpful. Many thought abusers should get counselling in jail. Respondents to McGillivray and Comaskey's (1999) study also strongly supported mandatory treatment programs. They also thought that counselling offered as part of a jail term would be the most effective.

Other measures outside the mainstream criminal justice system have been considered for Aboriginal people dealing with domestic violence, however individuals of Aboriginal origin are concerned that victims will not be safe and sentencing by the alternative courts will be too lenient. The Canadian Panel on Violence Against Women (1993) found that many Aboriginal women did not want a parallel Aboriginal justice system. LaRocque (1995) also noted that sentencing is lenient for Aboriginal offenders who assault Aboriginal people, more lenient than for non-Aboriginal offenders. She argued that violent crimes should be penalized severely and offenders should receive treatment. Aboriginal women interviewed for McGillivray and Comaskey's (1999) study were also asked about diverting offenders to programs outside the criminal justice system. Some thought diversion could be "an easy way out" (p. 127) for offenders. A majority (19 of the 26) thought that it was "worth a try" (p. 127), but recommended conditions that would protect them and their children and ensure that the process was fair. The Ontario Native Women's Association (1989) reported that Aboriginal women would prefer an Aboriginal justice system because they see family violence as a community problem with all members of the family needing healing and they look to elders and other spiritual leaders in their community for guidance, not judges and police.

In summary, American studies found that fewer women supported "no-drop" prosecution policies than supported mandatory arrest policies, not surprising given that police intervention has an immediate impact for victims whereas prosecution is a long, difficult process, often without a satisfying outcome for victims. Smith's 2001 American study, surveying 93 victims of domestic violence, found that 69% supported mandatory prosecution policies, less than the 75% who supported mandatory arrest. More than half of the victims (59%) said that they would be more likely to report domestic violence in a community that had mandatory prosecution laws. In Erez and Belknap (1998) about two-thirds (65%) of the 50 victims interviewed thought that victims should be allowed to drop charges if they thought this would benefit them. In the same study, about half (49%) thought that women should be required to testify, 39% did not know. Bui (2004), reporting on a study that interviewed 440 Vietnamese Americans, found that most supported police being called in cases of domestic violence, but support for criminal prosecution was lower.

4.5.2 How Satisfied are Victims' With the Court Process?

The court system is complex, yet women are usually expected to enter this system and navigate it competently by themselves, while also dealing with children, financial concerns and, in some cases, continued abuse (Lloyd, 2000). Several American authors

highlighted that victims did not understand how the court worked or found it confusing (Bennett et al., 1999; Weisz, 1999; Wittner, 1998).

Lack of information about the court process was a concern mentioned in several studies. In Bui (2004), a survey of 440 Vietnamese Americans in four communities in the United States reported that almost all (97%) of the respondents were aware that domestic violence was illegal, though fewer (80%) were aware of mandatory arrest laws and fewer still (64%) were aware of prosecution policies. Other studies asked victims about the information they received from the court system. Some of the respondents to Russell's (2002a) Canadian study were given a considerable amount of written material, while some victims got no information. In other cases, the stress caused by a lack of information about the court process from attorney's was exacerbated by the long waiting period between first contact with the police and one's first court date (Gillis et al., 2006).

Many victims saw a need for information about the court process, including what to expect and the roles of court professionals (Alberta Law Reform Institute, 1995; Canadian Panel on Violence Against Women, 1993; Holder & Mayo, 2003; Landau, 2000, cited in Brown 2000; Law Reform Commission of Nova Scotia, 1995; Lewis et al., 2000; National Consultation with Victims of Crime, 2001; Prairie Research Associates, 1994; Roberts, 1996; Russell, 2002a; Weisz, Tolman & Bennett, 1998). Victims and service providers in Russell's (2002a) Canadian study frequently commented on how important information was to victims, especially information about how the criminal justice system operated, how their case was proceeding through the court system, and what their options were at different decision points. In MacLeod and Picard's (1989) Canadian study, interviewing 40 women, women wanted to know what supports were available to them and about court processes, including likely outcomes from the court case, so that they could make informed decisions about what to do. In Hamilton and Sinclair's 1991 *Report of the Aboriginal Justice Inquiry of Manitoba*, Aboriginal women reported that they would be more likely to lay charges and testify if someone explained court procedures to them. In Gover et al.'s (2003) American study of a specialized Criminal Domestic Violence Court, the most common recommendation from the 50 women interviewed was improving communication, for example, providing information about the court process and what a bond means.

Some victims wanted information about their case or about services available to them (National Consultation with Victims of Crime, 2001; Russell, 2002a). Notice of court dates was a specific piece of information victims wanted in Canadian and American studies (Landau, 2000, cited in Brown, 2000; Russell, 2002a; Weisz, 1999; Weisz, et al., 1998). Many women were not told the outcome of their cases (Landau, 2000, cited in Brown, 2000; Law Reform Commission of Nova Scotia, 1995; Lewis et al., 2000) or the status of their cases (Bennett et al., 1999). This became a safety concern when women were not told when their abusive partner was to be released from jail so they could take action to protect themselves (Law Reform Commission of Nova Scotia, 1995; Prairie Research Associates, 1994). Respondents to Russell's (2002a) Canadian study did not receive information about changes to protection orders and other information affecting their safety.

The manner that information was provided was a concern for women in two studies. In Russell's (2002a) Canadian study, some women were given a lot of written material, but much of it was not relevant to their situation. Women preferred to have information delivered in person. They also wanted information relevant to their needs at the time, which might

mean several contacts between staff and victims, as victims' needs change over time. Bennett et al.'s (1999) American study, based on interviews with 49 victims, as well as prosecutors and victim advocates, discovered that victims received a lot of information on the day of intake, soon after they have been abused, so it was hard for them to take it all in, and the system lacked resources to provide follow-up.

A major concern of women was the delay in getting cases through the court system in several Canadian studies and one American study (Bennett et al., 1999; Conway, 1987; Grasely et al., 1999; Lloyd, 2000; McGillivray & Comaskey, 1999; Russell, 2002a). Delays in some jurisdictions in Canada and the United States have resulted from the increased volume of cases produced by the new mandatory charging and prosecution policies. In Jaffe et al.'s (1991) study conducted in London, Ontario, just over half (54%) the 90 victims interviewed thought that the court process took too long, much the same as another study conducted in that city in the early 1980s, in which 58% of the 62 victims said the court process took too long.

Two Canadian studies (MacLeod, 1995; Russell, 2002a) concluded that victims wanted to get the court case over quickly so they could get on with their lives. MacLeod (1995) interviewed 20 Crown Prosecutors across Canada, who thought that most women would rather not go through the full court process, even if that meant a lighter sentence for the perpetrator. Also, in MacLeod's study and Lewis et al.'s (2000) British study, researchers reported that women felt anxious waiting for the court date and anticipating their court appearance.

Delays were also a problem because they gave the accused more time to intimidate the victim, according to three Canadian reports (Canadian Panel on Violence Against Women, 1993; Law Reform Commission of Nova Scotia, 1995; Russell, 2002a). If it took too long for the case to get through court, Russell (2002a) found that it was hard for women to resist pressure from their assailants to "drop the charges" and some women lost their motivation to continue with the prosecution.

Victims also expressed concerns about their safety while waiting for their court date, in several Canadian reports and one American study (Alberta Law Reform Institute, 1995; Bennett et al., 1999; Jaffe et al., 1991; Jaffe & Burris, 1984; Russell, 2002a). Women reporting to the Alberta Law Reform Institute (1995) said that they needed protection from the defendant, especially in the time between when the charge was laid and when the offender went to jail. In Jaffe et al.'s 1991 Canadian study, half of the 90 victims interviewed had concerns about their safety while going through the court process. Their concerns were not unfounded as during the lengthy court process one-quarter of the respondents were threatened by their partners and 9 per cent of the victims were abused by their partners. In Jaffe and Burris' (1984) earlier Canadian study, an even larger proportion (85% of the 62 respondents) worried about re-assault during the time waiting for their partner's case to be heard. In Finn (2002), one-fifth of victims (n = 37) reported that their partners threatened or abused them between the time they were arrested until the final disposition.

As previously noted, a small proportion of women use legal intervention as a lever or a threat to influence the abuser's behaviour and to gain power in the relationship (Buzawa & Buzawa, 2003; Ford, 1991; Landau, 2000; MacLeod, 1987; Ursel, 1998; Wittner, 1998). Ursel (1998) argued that Crown Prosecutors and the police need to understand that women

may be using the criminal justice system strategically, “as bargaining tools and tactics to help them survive abusive relationships” (Ursel, 1998, p. 79). Victims may be able to get the results they want without proceeding with prosecution, for example if the abuser agrees to go for treatment or stops the abuse. However, as the prosecutors in MacLeod’s (1995) study argued, because of no-drop prosecution policies, charges cannot be withdrawn, taking away women’s choices and their ability to manage their own lives. Also in Buzawa et al.’s 2000 American study of a pro-active, pro-intervention court, victims thought in terms of being able to bargain with their abuser. Of the 118 victims interviewed, 53% considered the courts to have increased their “sense of control” in the relationship, though others thought that going to court made them less able to bargain with the offender.

Perceived control over the justice response was strongly related to satisfaction in two American studies (Fleury, 2002; Hotaling & Buzawa, 2003b). In another American study, Hotaling and Buzawa (2003a), whether the prosecutor had acted according to their wishes was related to whether victims reported new offences. More than half (32 out of 58) of the victims who had been re-victimized did not report new offences and these victims were significantly more likely (55%) than others to say that the criminal justice system did not respond to their wishes. The group who did not report new offences were also less likely than the other victims to have wanted the offender prosecuted.

In Erez and Belknap’s (1998) American study, some of the 50 victims had a different point of view: they did not like being given the responsibility to decide what to do or being frequently asked what they wanted to do. Some women preferred not having the choice of dropping charges or not; they wanted the justice system to make that decision. As well, some wanted the court to subpoena them to testify; others would rather make that decision themselves.

Victims have expressed concern about their limited involvement in the court process, in two Canadian reports (Canadian Panel on Violence Against Women, 1993; Law Reform Commission of Nova Scotia, 1995), an American study (Wittner, 1998) and an Australian study (Holder & Mayo, 2003). MacLeod and Picard’s (1989) study, based on 40 interviews plus focus groups with victims and key informants, found that women may be reluctant to use the criminal justice system because the system makes decisions that have an impact on their lives without allowing women a chance to give input. Two Canadian reports, Gomes et al. (2002) and the National Consultation with Victims of Crime (2001), both based on information from victims of a variety of crimes, not just domestic violence, found that victims wanted more say in the court process. In Gomes et al.’s 2002 report, victims wanted as much say as offenders had. Victims reporting to the 2001 Canadian National Consultation with Victims of Crime said that they wanted more say, especially when decisions had an impact on their safety. In Prairie Research Associates’ (1994) Manitoba study, almost one-quarter (9 out of 38) of the women who had been through court requested more opportunities for victim input.

Women were also concerned that they were not able to give a full account of their experience of abuse in court (Lewis et al., 2000; Wittner, 1998). In Witter’s (1998) American study, some women wanted to talk about the history of violence in their relationships, not just the incident that led to the court case. Victims in Prairie Research Associates’ (1994) Manitoba study also thought that the prosecution should look at the “whole picture”, not just one incident (7 of 109).

In Russell's (2002a) Canadian study some victims felt empowered by going to court and having the opportunity to speak out about the abuse they had experienced. They also hoped that by speaking out they might be able to prevent others from being abused by their assailants. Some were empowered by realizing they had been strong enough to be a witness and go through the whole court process.

Another way that victims may have influence on the court system is through victim impact statements. The 1993 Canadian Panel on Violence Against Women and the Alberta Law Reform Institute (1995) both reported that victims considered victim impact statements valuable. Meredith and Paquette (2001) used focus groups in cities across Canada to ask victims of violent crimes, some of them victims of intimate partner violence, about victim impact statements. Victims wanted the victim impact statements to do two things: let the court know what impact the incident had on them and influence the sentencing. Most victims were positive about the process and would do it again. But most victims from Toronto would not submit a victim impact statement again because they thought it had no impact on sentencing and the Defence counsel challenged their statements.

Both MacLeod's (1995) Canadian study and the 1993 Canadian Panel on Violence Against Women identified that some criminal justice personnel do not understand the dynamics of abuse, why women remain in abusive relationships or do not report abuse. Sometimes court staff blamed the women for the violence (Canadian Panel on Violence Against Women, 1993; Russell, 2002a, Canada).

Another concern was with respect to court process for women arrested for domestic violence or dual arrests. In Miller's (2001) American study, criminal justice professionals and service providers described women unfamiliar with the court system and afraid of going to jail and losing their children. Sometimes their partners or the prosecutors would talk them into pleading guilty to avoid jail and losing their children, with the result that they ended up with a criminal record.

The courtroom experience is often difficult for victims. In Prairie Research Associates' 1994 Canadian study, most victims found appearing in court an upsetting experience. Ptacek's (1999) American study, based on interviews with 40 women who had been to court applying for restraining orders, found that women had powerful and mixed emotions in court: fear, anger, shame, guilt, embarrassment, and humiliation, which influenced their experience of court. Women were angry about going to court and having to relive the incident of abuse in Weisz's (1999) American study. In Buzawa et al.'s (2000) American study, 40% of the 118 women interviewed felt embarrassed about going to court.

Many women were fearful of testifying because this entails facing the offender, according to Canadian and American reports (Alberta Law Reform Institute, 1995; Bennett et al., 1999; Russell & Ginn, 2001; Weisz, 1999; Weisz et al., 1998). The 1993 Canadian Panel on Violence Against Women reported that victims could not avoid contact with their abusive partners if there was no private space for them to go while waiting for the court session to begin. Presenters to the 1993 Canadian Panel on Violence Against Women argued that preliminary hearings can increase women's stress because they mean women have to testify twice.

The courtroom or court staff, including defence lawyers, were intimidating for many women (Prairie Research Associates, 1994; Ptacek, 1999; Wittner, 1998). Not only was this

process described as intimidating, Gillis et al. (2006) found that many of their Canadian participants found the process impersonal and demeaning as well. Having other people in courtroom so that the situation was made public was a source of discomfort for many women (Bradford & Bruce, 2004; Ptacek, 1999). Cross-examination by the defence lawyer was also difficult for victims, according to several Canadian reports (Alberta Law Reform Institute, 1995; Canadian Panel on Violence Against Women, 1993; Law Reform Commission of Nova Scotia, 1995; Prairie Research Associates, 1994).

Canadian Aboriginal women also found the courtroom experience difficult and intimidating according to McGillivray and Comaskey (1999) and Hamilton and Sinclair (1991). The 26 women interviewed for McGillivray and Comaskey's (1999) study said that translation services and native court workers were not available. Victims also commented on arrogant lawyers asking humiliating questions. In Hamilton and Sinclair's 1991 *Report of the Aboriginal Justice Inquiry of Manitoba*, Aboriginal women reported that they would be more likely to lay charges and testify if emotional support was offered to them during court proceedings.

Racism in the court system was reported by Aboriginal women in two Canadian studies (Alberta Law Reform Institute, 1995; Chambers, 1998). In the Alberta Law Reform Institute's 1995 study more Aboriginal women reported inappropriate comments, both sexist and racist, than did other women. In Chambers' 1998 study, front-line workers and other key informants reported that as a result of the racism experienced by many Aboriginal people in the criminal justice system, seen most vividly in the high proportion of Aboriginal people in prison, many Aboriginal women did not trust the courts to treat them or their partners fairly. Some Aboriginal women even felt that they were betraying their people if they reported violence. Related to their fears of racist treatment, Chambers (1998) also found that Aboriginal women were reluctant to use non-First Nations services.

Immigrant women in the court system report fears of being re-victimized and experienced language barriers. Martin and Mosher's 1995 Canadian study reported that immigrant women were afraid of being re-victimized in court and felt that the courts did not support or protect victims. Bui's 2004 study interviewing 34 Vietnamese American abused women found that language was a barrier in court, especially with the legal terms used. In Miedema and Wachholz's 1998 Canadian study, some victims felt that they did not have enough English or French, so that the prosecutors could not understand the fine points of their story and present the case properly.

Several studies, Canadian, American and Australian, reported on victims' experiences with prosecutors. Levels of victim satisfaction with prosecutors were low in most of the studies and victims were generally less satisfied with prosecutors than they were with the police.

Canadian studies found low rates of victim satisfaction with prosecutors. In Prairie Research Associates' 1994 Manitoba study, just 60% (65 out of 109) of the women were satisfied with the way the Crown prosecutors' office handled their case and in Roberts' 1996 Yukon study 55% of respondents whose cases went through the mainstream court were dissatisfied. A study conducted by Jaffe et al. (1986) in London Ontario, found a decrease in victim dissatisfaction with the prosecution from 56% dissatisfied in 1979 to 45% dissatisfied (n = 73) in 1983. However, this was a much less dramatic change than the decrease in

dissatisfaction with police intervention from 47% dissatisfied in 1979 to 5.5% dissatisfied in 1983. A third study conducted by the Ontario London Family Court Clinic in 1991 found a large increase in satisfaction with 65% of the 90 victims who had contact with Crown Attorneys feeling supported, compared to only 31% in 1979.

In American studies also, victim satisfaction with prosecutors was low: from 44% to 65% (Buzawa, et al., 2000; Byrne et al., 1999; Finn, 2004; Smith & Davis, 2004) and from 2.9 to 3.3 on a scale of 5 (Erez & Belknap, 1998; Fleury, 2002; Hotaling & Buzawa, 2003b). In all of these studies, except Erez and Belknap (1998), victims were more satisfied with the police than with prosecutors.

Attitudes towards prosecutors might have been affected by mandatory prosecution policies, which Landau (1998) reported have put more pressure on courts, resulting in long delays, lack of time for Crown prosecutors to prepare and limited time for Crown prosecutors to meet with victims. Davis, Smith and Nickles' 1997 American study also found that an increased load of cases brought decreased victim satisfaction with case outcomes and with how the prosecutor handled the case. The researchers suggested that this decreased satisfaction might have been due to a higher proportion of cases going through the court where the victims did not want their partners prosecuted. However, as reported in the London Family Court Clinic 1991 study, in the London court, victim satisfaction with prosecutors increased, though the volume of charges laid increased dramatically and only 11% of charges were dismissed or withdrawn in 1988 and 1989 compared to 38% in 1979, as reported by Jaffe et al. (1991).

With respect to concerns about prosecutors, a proportion of women claimed that they did not have enough contact with the Crown in three Canadian studies (Alberta Law Reform Institute, 1995; Roberts, 1996; Russell & Ginn, 2001), though victims meeting with the Crown is a practice associated with mandatory prosecution policies (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003). In three Canadian studies, victims wanted more time with prosecutors to get prepared to testify (Law Reform Commission of Nova Scotia, 1995; Prairie Research Associates, 1994; Roberts, 1996).

Nevertheless, victim contact with the Crown increased over time according to two Canadian studies (London Family Court Clinic, 1991; Roberts, 1996). In the London Family Court Clinic's study in 1991, in London, Ontario, over half (53%) of the 90 victims interviewed who had contact with Crown Attorneys said they spent enough time with the Crown compared to 41% who had not even spoken to the Crown in the study conducted in 1983. Also in Roberts' 1996 Yukon study, less than 20% (8) of the 43 victims had any contact with Crown before the accused's plea, but respondents said that pre-court contact had increased in recent years.

Fleury (2002) had a surprising result, finding that those who spent more time with the prosecutor were more dissatisfied with how the prosecutor handled the case, the court process and the court outcome. These women might have been trying to influence the prosecutor to handle the case differently. As the author pointed out, spending more time with the prosecutor will not automatically increase satisfaction, attention must be paid to the quality of the interaction.

Victims were concerned that prosecutors were not supportive or did not listen to them, in several studies (Buzawa, et al., 2000; Erez & Belknap, 1998; Lyon, 2002; Russell & Ginn, 2001; Weisz, 1999). In Erez and Belknap's 1998 American study, half (51%) of the 50 women interviewed reported that prosecutors encouraged them to proceed with prosecution, half (49%) were not encouraged. Discouraging comments included prosecutors saying that they did not believe the victims or did not think the victims would follow through with prosecution. Some of the victims in Russell and Ginn's 2001 Canadian study commented that the Crown did not object to inappropriate comments made by the defence counsel or the abuser in court.

Buzawa, et al. (2000) argued that the perception of prosecutors as unsympathetic or unresponsive to victim needs may be related to victims' wishes to drop charges conflicting with the mandatory prosecution policies. However, as noted above, a study conducted by the London Family Court Clinic in 1991, in London, Ontario, found that 65% of the 90 victims interviewed who had contact with crown attorneys felt supported, an increase from 31% in 1979 study, though only 11% of charges were dismissed or withdrawn in 1988 and 1989 compared to 38% in 1979 as reported by Jaffe et al. (1991).

Some victims reported that prosecutors showed a lack of understanding of abuse or did not take domestic violence seriously. Over half (51%) of the 50 women interviewed in Erez and Belknap's 1998 American study reported that the prosecutor asked whether they had provoked the abuser. In Prairie Research Associates' 1994 Manitoba study the most common reason (13 of 109) given by victims for not being satisfied with the Crown was that the Crown did not take the case seriously or was too easy on the accused. According to victims in Cretney and Davis' 1997 British study, prosecutors minimized the violence.

4.5.3 How Satisfied are Victims with the Court System?

Few studies have asked women how satisfied they are with the court system especially in comparison to the many that have focused on satisfaction with the police response. However, several studies have addressed victim's satisfaction with court personnel, such as prosecutors, judges and victim assistance workers, rather than satisfaction with the court system as a whole.

Victims' rates of satisfaction with prosecution are generally lower than satisfaction with the police intervention. This is the case even though it is hard to separate satisfaction with the court system from satisfaction with the police: each influences the other. If women have a good experience with the police, they are more likely to look positively at the whole system.

Generally, women's satisfaction with the court system was somewhat low. Women were neutral about the court system, between somewhat satisfied and somewhat dissatisfied in three American studies (Erez & Belknap 1998; Fleury, 2002; Hotaling & Buzawa, 2003b). As well, in these same studies, plus one other American study (Byrne et al., 1999), women were less satisfied with the court than with the police. However, in Smith and Davis's 2004 study of four American cities that had adopted no-drop prosecution policies, 85% of the approximately 140 victims had come to see prosecution as helpful when contacted several months after the disposition of their case.

In Jaffe et al.'s (1991) Canadian study, victims were more satisfied with the court process than they had been in previous studies. However, Davis, and Nickles' (1997) American study found a decrease in victim satisfaction with prosecutors and case outcomes after the court introduced a new screening policy. The authors argued that this decrease in satisfaction was the result of more cases coming through the court where the victims did not want the defendant prosecuted.

An indicator of satisfaction is whether women would use the criminal justice system to deal with future abuse. In Russell's (2002a) Canadian study, a few women, most of them First Nations women, would be reluctant to use the system again. But in two American studies, most women said that they would contact the justice system again. In Erez and Belknap's (1998) study, 77% of the 50 victims interviewed reported that they would use the criminal justice system to deal with future abuse. Almost all of the 60 women interviewed for Lyon's (2002) study of a specialized domestic violence court said that they would contact the court again if the offender hurt or threatened them and was involved in a court-ordered program.

In two American studies (Finn, 2004; Hotaling & Buzawa, 2003b), researchers identified factors related to satisfaction with the court system. Finn's 2004 study of two courts, one specialized, the other not, found that the women with more physical injuries, who were not living with the abusive partner, and who had given police contact a higher rating. Some of the factors related to satisfaction identified by Hotaling and Buzawa (2003b) were: the seriousness of the incident, whether the prosecutor helped the victim feel in control, whether the threat of prosecution scared the offender and whether the victim's arrest preferences were ignored.

4.5.4 Lack of Involvement in the Court Case

With no-drop prosecution policies, charges cannot be withdrawn, and Crown prosecutors in MacLeod's (1995) study argued that this limits women's choices and their ability to manage their own lives. In Lewis et al.'s (2000) British study, victims viewed prosecutors as the least helpful of the court personnel because they would not withdraw charges even when the woman was afraid of the abuser retaliating if the prosecution went ahead. In a feminist critique of the legal system, Abell (1992) pointed out that often a prosecutor represents the state and not the individual victim in a court case and that many of the woman's needs go unmet because of this. In order to address this concern, Drumbl (1994) suggested that women play a more active role in the sentencing process.

Women's concerns about their involvement in the case were also related to expectations that the Crown would act as their lawyer, in the Law Reform Commission of Nova Scotia's 1995 study. Some victims interviewed for this study could not understand why the Crown did not consult them about the case. In Byrne et al. (1999) victims had more positive experiences with prosecutors; 56.2% felt that their opinion had been taken into account by the prosecutor when making decisions about the case. Hotaling and Buzawa (2003b) found two factors related to victim satisfaction were: whether the prosecutor helped the victim feel in control and whether the victim and prosecutor disagreed about charges.

Hotaling and Buzawa's U.S. study (2003a) also concluded that whether the prosecutor responded to victims' wishes affected whether victims reported new offences.

More than half (32 out of 58) of victims who had been re-victimized did not report new offences and 55% of these victims said that the criminal justice system did not respond to their wishes. The victims who did not report new offences were also less likely than the other victims to have wanted the offender prosecuted. This was also the most likely group to be dissatisfied with the prosecutor's actions, which is why the authors speculated that it was the prosecutor who they saw as not attending to their wishes more than other personnel.

In the 1993 Canadian Panel on Violence Against Women report and MacLeod's (1995) Canadian study, concern was expressed about women being arrested or charged with contempt if they did not want to testify. Finn (2004) studied two American courts, one specialized, the other not, and found the use of coercion was equal in both courts, with prosecutors using coercive tactics in almost one-quarter of cases: 12% of the 170 women were subpoenaed to testify because they refused to do so voluntarily and 11% were threatened with arrest if they would not testify or withdrew their complaint.

Victims were concerned that prosecutor's plea bargained sentencing and charging without involving them, in two Canadian reports (Canadian Panel on Violence Against Women, 1993; Law Reform Commission of Nova Scotia, 1995). In Cretney and Davis's (1997) British study, most of the 21 victims were not happy when the charge was reduced from actual bodily harm to common assault, making the abuse sound trivial, when it was actually only one incident among many incidents of physical and psychological abuse. In Canada's 2001 National Consultation with Victims of Crime, speaking with victims of all crimes, not just victims of domestic violence, victims wanted more say in the plea bargaining process, especially when decisions had an impact on their safety. To address these problems, Ursel (1998) reported that in Winnipeg changes had been made to the prosecution process so that plea bargaining can consider the victim's wishes, for example whether she wants her partner to go to jail or wants him to get treatment.

Other concerns that victims reported with respect to prosecutors were: lack of consistency between jurisdictions in how they handled cases, the Crown not being prepared for court, and being charged for failure to protect their children from exposure to abuse. Buzawa and Buzawa (2003) argued that in different jurisdictions prosecutors handled cases differently, for example whether they dropped cases or in what circumstances. This made it confusing for victims and hard for them to decide whether to use the criminal justice system. Women also felt that the Crown did not have time to adequately prepare their cases, in Canadian reports (Alberta Law Reform Institute, 1995; Canadian Panel on Violence Against Women, 1993; Grasely et al., 1999; Lloyd, 2000; Russell & Ginn, 2001). In Russell and Ginn (2001), victims were concerned that the Crown was not using all available evidence. Another concern for women reported by American researchers (Buzawa & Buzawa, 2003; Epstein, 1999; Lyon, 2002) was that prosecutors could charge women for failure to protect their children from exposure to abuse or could report women to child protection authorities. Some authors argued that, as this becomes known by women, victims might avoid the criminal justice system.

In a study of female victims by Minaker (2001), it was also found that many women felt 'out of the loop' when it came to the criminal justice process. However, even when some of the women tried to get more actively involved, this further distanced them from the process, as they came up against more obstacles with fewer resources. Thus, even when

women try to become more actively involved in the court case, barriers are likely to continue coming up.

4.5.5 Victims' Satisfaction with the Judiciary

Few studies have asked victims about their satisfaction with judges. Generally victims' ratings of judges were somewhat low and were similar to their ratings of prosecutors. Most victims were more satisfied with the police than with judges or prosecutors. In American studies, victim satisfaction with judges ranged from 50% (n = 131) (Finn, 2004) to 53% (n = 70) (Byrne et al., 1999) to 67% (n = 140) (Smith & Davis, 2004) and 3.25 out of 5 (n = 50) (Erez & Belknap, 1998). In Ptacek's 1999 American study interviewing 40 women seeking restraining orders, one-quarter of the women (25%) commented that their interaction with judge was the most helpful part of going to court.

Important to victims in a number of studies, was whether the judge was supportive and concerned or bureaucratic and uninterested. In Ptacek's 1999 study, based on interviews with 40 women in an American court applying for restraining orders, women reported that 67% of judges were supportive or 'good-natured', 24% were bureaucratic, passive or detached and 9% were condescending or harsh. According to the women in Ptacek's study, supportive judges showed caring and concern and treated them as a human being, not just victims or battered women. Other positive characteristics of judges noted by the women were giving them recognition, believing them, making eye contact and taking the time to listen to their story even when the courtroom was crowded. In Steketee et al.'s 2000 study of an American specialized court with dedicated judges, most (82%) of the 51 women who responded to this question reported that judges listened to their side of the story .

Bureaucratic judges did not show concern for the women; it seemed like just another case (Ptacek, 1999). Women reporting to Erez and Belknap's 1998 American study and the Law Reform Commission of Nova Scotia (1995) also identified some judges as bureaucratic or uncaring. In three American studies (Erez & Belknap, 1998; Lyon, 2002; Ptacek, 1999), some victims reported that judges did not spend enough time listening to their side of the story.

In other studies, victims reported that judges had negative attitudes toward them. Victims reported that judges had a bias against women or viewed abused women as crazy and wanting revenge in the Law Reform Commission of Nova Scotia's 1995 report. Women reporting to the Alberta Law Reform Institute's 1995 study said that they had to present to the court as nice middle-class mothers. In Erez and Belknap's 1998 American study, half of the 50 women interviewed said that the judge asked about divorce proceedings and victims thought that this was inappropriate.

Feeling inferior or intimidated by the judge was difficult for victims as noted in several reports (Alberta Law Reform Institute, 1995; Canadian Panel on Violence Against Women, 1993; Ptacek, 1999; Wittner, 1998). Some respondents to the Alberta Law Reform Institute (1995) study said that feeling rushed and intimidated made it hard for them to tell their stories well. In Ptacek (1999), some women reported feeling 'stupid' or 'dumb' and subordinate to the judge. Ptacek argued that psychological abuse leads to low self-esteem and feeling inferior, which can be reinforced by the court experience.

Some judges do not understand the dynamics of domestic violence, according to three Canadian reports (Canadian Panel on Violence Against Women, 1993; Landau, 2000; Law Reform Commission of Nova Scotia, 1995). In Erez and Belknap's 1998 American study, 16% of the 50 women said the judge asked if they had provoked the abuse. Ptacek (1999) also reported that with some judges, women felt like they had done something wrong.

In other studies, judges seemed not to treat the assaults seriously or understand the risks to the woman. Victims interviewed for Ptacek's (1999) study found that some judges took their situation seriously, but other judges did not. In two other studies (Erez & Belknap, 1998; Russell & Ginn, 2001), some victims thought that judges not sending the offender to jail showed that they did not understand the danger to the woman. However, in Steketee et al.'s 2000 study of an American specialized court most (84%) of the 51 women reported that the judges took violence seriously.

Victims also commented on the judges' behavior toward the defendants and the defence lawyers. In Ptacek (1999), some victims reported that the judge treated the defendants better than the victims, gave them more time to talk, treated the violence as the woman's fault or was harsh towards the woman in front of the defendant. What victims liked was judges being firm toward defendants and wanting defendants to be accountable (Ptacek, 1999). Respondents to the 1993 Canadian Panel on Violence Against Women reported that cross-examination by defence lawyers could be difficult for victims and at times judges did not intervene sufficiently.

4.5.6 Victims' Satisfaction with Court Outcomes

Many abused women had high expectations for the criminal justice system in MacLeod and Picard's (1989) Canadian study. They believed that by going through the system that their partner would become aware that what he was doing was wrong and they would end up with a caring relationship. With such expectations, many women were inevitably disappointed and dissatisfied with the court system.

A number of studies have asked victims questions about court outcomes: whether they felt safer after the criminal justice system's intervention, whether the abuse ended or decreased and how satisfied they were with the sentence their partner received. Studies have found generally low rates of satisfaction with court outcomes, especially with sentencing.

In two studies, at least some of the victims felt safer after going through the court system. After court, 58% of the 39 victims in Holder and Mayo's 2003 Australian study said that they felt very safe or fairly safe. In Buzawa et al.'s 2000 American study, 39% of the 118 victims interviewed felt safer because of the actions of the court.

Victims said that their partners' violence was reduced or ceased after going to court in two studies (Jaffe, Wolfe, Telford, & Austin, 1986; Lyon, 2002, US), though in another study (Weisz et al., 2004) more women stated that the justice system had not helped in decreasing abuse than said it helped. In Jaffe et al. (1986) the majority of victims reported that violence was reduced or had ended, even if the abuser was not found guilty. Of the 60 victims interviewed for Lyon's (2002) study of an American specialized court, less than one-fifth reported more abuse since the court case and just over one-quarter were concerned about future abuse. However, in Weisz et al.'s 2004 study, based on interviews with 242 women, almost all of them African-American, close to half (42%) said that the criminal justice

system did not help them in any way, including helping decreasing the abuse, though one-third (33%) of the women reported that the justice system did help decrease abuse.

The National Institute of Justice (2006) found that victims who were dissatisfied with the court outcome tended to have been involved in more serious instances of abuse and were more likely to have disagreed with the police about the offender's arrest. The study also found that victims who felt they had little control over the situation (i.e., that they could leave or directly confront their abuser) were more likely to be dissatisfied with the criminal justice system. In other words, women may be reporting violence to increase their control over the situation, but this may not always be the case. For these women, they were also less likely to report future instances of abuse due to their negative experiences with the system.

In a number of studies, a high proportion of victims did not consider their partners' sentences adequate (Byrne et al., 1999; Minaker, 2001; Prairie Research Associates, 1994; Roberts, 1996). In Roberts' Canadian study, half of the respondents were dissatisfied with the sentence the offender received. Also, in Prairie Research Associates' Canadian study, over one-half (61 out of 109) of the victims believed that the disposition was not fair. Victim satisfaction was even lower in Byrne et al.'s American study; only 18.5% (n=70) thought that the sentence given was appropriate. In Minaker's study, the women were dissatisfied with the sentence their partners received because they did not think their partners were being held accountable for their actions. Not to say that these women were seeking some inappropriate level of punishment for their partners, but were taking into consideration their own and their children's safety, as well as desiring an appropriate criminal justice response to their partner's actions.

In several Canadian studies, victims were concerned that sentences were too lenient (Alberta Law Reform Institute, 1995; Bradford & Bruce, 2004; Geller, 1991; Grasely et al., 1999; Jiwani & Buhagiar, 1997; Law Reform Commission of Nova Scotia, 1995; Prairie Research Associates, 1994; Russell & Ginn, 2001; Russell, 2002a). Ginn (1995) theorized that this could be because many judges view domestic violence as an isolated incident that is unlikely to reoccur in the future.

However, other research has shown that this is not the case and domestic violence is often a regular and persistent occurrence (Mahoney, 1992). In British (Cretney & Davis, 1997), Australian (Holder & Mayo, 2003), and American studies (Erez & Belknap, 1998), victims also considered the sentences to be too light. In Russell and Ginn's (2001) study, victims reported that offenders' sentences were most often probation with the condition to attend treatment. The majority of the participants in this project believed that this was too lenient. LaRocque (1995) noted that sentencing was more lenient for Aboriginal offenders who assaulted Aboriginal people than those who assaulted non-Aboriginals. LaRocque argued that violent crimes should be penalized at equal levels of severity and that offenders should also receive treatment. Many of the victims who responded to Cretney and Davis' (1997) British study indicated that sentencing was too lenient and did not reflect the long period of abuse that they had endured. In Erez and Belknap's (1998) American study, 68% of the 50 women who were interviewed also believed that the sentence their partner received was too light.

When asked what sentence would be appropriate, some victims wished that their partner had received treatment or believed that mandatory treatment was a crucial part of the

rehabilitative process (Ames & Dunham, 2002; Cretney & Davis, 1997; Prairie Research Associates, 1994; Roberts, 1996; Russell, 2002a; Wilson, 1998). In some states, a community policing strategy has been adopted, in which police officers are responsible for arresting and treating perpetrators (Slaght & Hamilton, 2005). This could mean that the police officer offers some sort of counselling assistance to the perpetrator, victim, and/or their family, or connects the involved parties with local treatment programs. In Roberts (1996), half of those dissatisfied with the sentence the offender received wanted their partner to get treatment instead of going to jail. In Prairie Research Associates, (1994) a small proportion of the women who were not happy with the sentencing (15%, 9 out of 61) believed that mandatory counselling should have been part of the sentence.

Respondents to Wilson's 1998 Canadian study had mixed views about court-mandated counselling. The majority supported counselling, but others (5 of 18) thought that counselling would not be effective or was not enough of a consequence. In other Canadian reports, victims wanted abusers to get counselling in jail (Alberta Law Reform Institute, 1995; Canadian Panel on Violence Against Women, 1993; Hamilton & Sinclair, 1991; Russell 2002a). Respondents to the 1993 Canadian Panel on Violence Against Women believed that if offenders did not receive treatment while in jail, they would come home and repeat the offence.

Some victims supported jail terms for their partners, others did not. In Prairie Research Associates' 1994 study, one-fifth (13) of the 61 victims who believed that the court disposition was unfair thought that the offender should have got a jail sentence. Some of the women (8 out of 61) whose partners did get a jail sentence, thought it was too short. However in other studies, victims did not want their partners sent to jail. In Roberts (1996), half of those dissatisfied with the sentence wanted their partner to get treatment instead of being sent to jail. Many women in Bennett et al.'s 1999 study did not want their partners to go to jail, especially when African American men were involved because of their high rate of incarceration. Women were also concerned about their children losing access to their father and the loss in income. Ames and Dunham's (2002) American study based on 24 victim interviews found that for financial reasons women may not want their partner jailed and unemployed.

A number of factors were found to influence whether or not women would reuse the criminal justice system, including whether or not they were financially tied to their abuser, were employed, and felt supported by their community (Fleury-Steiner, Bybee, Sullivan, Belknap, & Melton, 2006). Court outcomes were also found to be important in this decision. If the court proceedings had been cancelled at least once and victims felt generally unsupported by the legal system, they reported being less likely to turn to the system in the future. If, however, they felt supported by the legal system, had received information and services from the police, and if court outcomes paralleled their expectations, then they intended to use the system again, if needed.

In a Canadian study by Gillis et al. (2006), all 20 women who were interviewed said that they would *not* use the legal system again to deal with domestic violence. Even when they were satisfied with the outcome of the case, the process was so emotionally and mentally draining that it was a deterrent for future involvement. Also, safety was not increased after the process for the participants, which is a major reason why many women turn to the justice system to begin with.

4.5.7 Victims' Satisfaction with Specialized Domestic Violence Courts

Generally, victim satisfaction with specialized domestic violence courts was high, though Lyon's (2002) American study was one exception. In Moyer's (1999) Ontario study of Domestic Violence courts, more victims in Domestic Violence Courts (52-64%) than in the regular courts (39%) reported being given sufficient information. Just over half (54%) of the 50 respondents to Erez and Belknap's (1998) American study had received enough information about the prosecution process, but almost one-third (30%) said that they had not got enough information about the process.

However, in two American studies of specialized courts, victims received a more supportive response from prosecutors. Finn (2004), studying two American courts, one of them a specialized court, reported that about one-third of the 170 victims were persuaded to cooperate with the prosecution by the level of support they received from the prosecutors. Steketee et al. (2000), studying a specialized court, also found a high rate of satisfaction among the 27 victims who had contact with prosecutors. Victims reported that the prosecutors listened to them, heard their concerns and explained what the court process would be.

Moyer (1999, cited in Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003) studied six Ontario Domestic Violence courts soon after they opened. Of the six sites, all had Partner Assault Response programs, three used early intervention, two had dedicated courts and four had dedicated Crowns (Moyer, 1999). Victims in the three early intervention sites were more satisfied (80%) with case outcomes than the victims in the other three sites (42% to 64%), where the emphasis was on gathering evidence to support a vigorous prosecution (Moyer, 1999, cited in Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003). Victims in the early intervention sites were pleased that the offender would not have a criminal record and would receive treatment. Victims at all sites, domestic violence court and comparison, felt that they had been treated fairly and received support (Moyer, 1999).

American studies of specialized courts also interviewed victims. Gover, MacDonald, Alpert, and Geary (2003) studied an American specialized Criminal Domestic Violence Court, which featured collaboration between key players and the option of domestic violence treatment for offenders. Three-quarters (74%) of the 50 victims thought that the handling of their case by the Domestic Violence court was good or excellent. As well, they reported that they had time to explain their story in court (90%), they were treated with respect and dignity (88%) and the outcome was fair and just (77%). Half of the victims said that this experience was better than experiences they had had in other courts on domestic violence issues.

In Steketee, et al.'s (2000) study of a specialized Domestic Violence Court with a dedicated domestic violence courtroom and a centralized domestic violence intake centre, victims were not asked about their overall satisfaction with the court, but researchers found high levels of satisfaction with prosecutors, judges and victim advocates as noted later in this literature review. In Lyon's (2002) study, the specialized court offered groups for offenders, biweekly or monthly court appearances, court-ordered treatment for substance abuse and victim advocates. Most victims reported some positive aspects to their court experience. Slightly more than half (59%), stated that the court treated them fairly. Some victims

suggested that the process could be improved if the court did more listening and responding to victims' individual circumstances. In one study of a South Carolinian specialized court, the results showed that most courtroom interactions that were observed by research associates (26 out of 30) were classified as 'collaborative,' meaning that defendants and victims were listened to and given a say in the proceedings (Gover, Brank, & MacDonald, 2007). This collaboration contributed greatly to the victims' experience in the court, with 74% rating their experience as either good or excellent. Victims felt that their story was heard, the case came to court fairly quickly, they were treated with respect, and the sentence their partner received was adequate.

Overall, this finding was replicated in both Canadian and American studies of specialized courts, with more victims being satisfied than dissatisfied with their partner's sentencing. As noted in an earlier section of this review, Moyer's (1999, cited in Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003) study of specialized domestic violence courts in Ontario found that in three early intervention sites, 80% of victims were satisfied with case outcomes, though in the other three sites, which emphasized gathering evidence to support a vigorous prosecution, satisfaction was much lower: 42% to 64%. Victims in the early intervention sites were pleased that the offender would not have a criminal record and would receive treatment. In Smith and Davis's 2004 American study, 59% of the approximately 140 victims interviewed were satisfied with the court outcome. The 50 victims interviewed for Gover et al.'s 2003 study of an American specialized domestic violence court were asked if the court's response was too easy, too harsh or just right. Victims responded: 67% just right, 23% too easy, and 10% too harsh. As well, 77% of the victims considered the outcome as fair and just.

Lemon (2006) pointed to another way that specialized domestic violence courts may be better suited to address the needs of female victims of violence, particularly immigrant, refugee, and non-English speaking women. Lemon advocated for trained civil law interpreters to be present in domestic violence court cases in order to increase the voice of these victims. Doing so may increase their overall satisfaction level with specialized domestic violence courts, which until now has been understudied, and increase the likelihood that these women will report incidents of abuse to the police.

4.6 Victims' Satisfaction with Victim/Witness Assistance Programs

Victim assistance programs are often provided for female victims of abuse and do not include services like shelters. Their purpose is to support victims, increase victims' safety, and to encourage victims' cooperation with prosecution by testifying. These programs may be based in the community, be part of the police service, or the court. In Manitoba, Saskatchewan and Alberta, many victim assistance programs are police-based, providing support and advocacy, crisis intervention, safety planning, compensation for injuries, accompanying the victim to court, referral to other agencies, information about case status, and assistance with victim impact statements.

In Prairie Research Associates' (1994) Manitoban study, 35 out of the 38 women who testified in court received some level of support with their appearance in court. The most common sources of support mentioned by the women were received through the Woman's Advocacy Program, the Crown Attorney, and Victim Services. Rates of victim satisfaction with such victim assistance programs and staff were high, with about 80% of individuals

being satisfied, as reported in numerous Canadian (Grasely et al., 1999; Prairie Research Associates, 1994; Russell & Ginn, 2001; Wilson, 1998) and American studies (Buzawa, et al., 2000; Erez & Belknap, 1998; Lane et al., 2004; Lyon, 2002; Steketee et al., 2000; Weisz et al., 2004; Whetstone, 2001).

Gillis et al. (2006) found that the 20 Canadian women they interviewed had mixed feelings about victim assistance programs. On the one hand, some women were provided with valuable resources and support, whereas others found the services difficult to access and/or that they provided the women with unclear information.

Lower rates of victim satisfaction were found in two American studies. In Finn (2004), only 54% (n = 66) and in Byrne et al. (1999) only 68% (n = 70) of victims reported being satisfied. In two additional American studies (Erez and Belknap, 1998; Whetstone, 2001), victims were more satisfied with victim assistance staff than with other criminal justice personnel. Two studies, Prairie Research Associates' 1994 Manitoba study and Weisz et al.'s 2004 American study reported that victims were generally satisfied with victim assistance staff, whether they were connected with the police, the community or the justice system. However, in Weisz et al.'s (2004) study, higher victim satisfaction with the criminal justice system was associated with whether a warrant was issued, not whether the victim received advocacy. According to Buzawa and Buzawa (2003), victim advocacy may increase victim satisfaction with the criminal justice system as a whole. This is because, based on the information they get from advocates, victims have more realistic expectations of what court outcomes and process will be. As well, they get advice which helps to increase their safety and well-being.

In a number of studies, women appreciated the information or referrals that they received from victim assistance workers (Lyon, 2002; Mahas, 2000, cited in Russell, 2002b; Russell, 2002a; Steketee et al., 2000; Weisz, 1999; Weisz et al., 2004). Victims appreciated receiving information about their rights (Mahas, 2000, cited in Russell, 2002b), court procedures and processes (Mahas, 2000, cited in Russell, 2002b; Steketee et al., 2000), and protection orders (Weisz, 1999). Victims also appreciated referrals to community services (Lloyd, 2000; Mahas, 2000, cited in Russell, 2002b; Wan, 2000). In two American studies, Lyon (2002) and Weisz et al. (1998), women described advocates as their communication link with the court. However, some victims in Weisz et al.'s 2004 study reported that the victim advocates were unavailable and did not give them enough information.

Women also described the emotional support that they received from victim assistance workers (Lyon, 2002; Mahas, 2000, cited in Russell, 2002b; Wan, 2000; Weisz, 1999; Weisz et al., 2004; Whetstone, 2001; Wilson, 1998). Canadian Aboriginal women and women from visible minorities also found victim services supportive (McGillivray & Comaskey, 1999; Mahas, 2000, cited in Russell, 2002b). Ways in which victim assistance workers provided emotional support included: being friendly, listening, showing concern, and taking time with victims. Several of the 11 women interviewed in Weisz' 1999 study of an American community-based advocacy service said that they could call the advocates for support when they were afraid or did not know what to do about the abuse. In Whetstone's 2001 American study of a police domestic violence team where the victim advocates accompanied police to all domestic violence calls and provided follow-up, many of the 45 victims (39 women and 6 men) reported that the advocates helped them get through a difficult time, giving them hope when they had no other supports.

In Wilson's (1998) Canadian study, 18 women were asked about their experiences with the Victim Services staff connected with the Halifax Police Department. The majority described the staff as friendly, and compassionate. Several commented that the staff members understood their experience: only one was dissatisfied. Bell and Goodman (2001) compared service victims received from volunteer law student advocates who provided intensive service with the brief service offered by other volunteer advocates. The victims with a law student advocate reported that they received more support and that the advocate cared about them.

Another role of victim assistance workers is encouraging victims to testify. In some studies, victims appreciated this assistance; in other studies the victims found the advocates coercive. In Dawson and Dinovitzer's (2001) Canadian study, victims who met with victim-witness workers were more likely to cooperate with the prosecution. The authors suggested that the victims who met with victim assistance workers might have been more likely to engage with the system anyway, but they argued that the victim assistance workers' support may have helped them through court. Two victims had initially not wanted to proceed, but decided to do so with the encouragement of the workers. Several respondents to Erez and Belknap's (1998) American study, said that supportive justice personnel, who showed a commitment to working on their case, including victim assistance workers, police, and prosecutors, made a difference in their ability to continue with prosecution. In Weisz, Tolman and Bennett (1998) and Weisz (1999), some of the 11 women interviewed reported that working with advocates made it easier for them to participate in the prosecution.

The ways that victims' assistance workers support victims through the prosecution process vary. Buzawa and Buzawa (2003) noted that in some programs victim advocates pressure women into committing to prosecution against their wishes. Respondents to the 1993 Canadian Panel on Violence Against Women also reported that some advocates did not offer real support, but just moved victims through the system. Shepard (1999), based on interviews with seven experienced advocates, noted a difference between advocates who were focussed on the needs of the women and those who were employed by the criminal justice system and were expected to facilitate the goals of the system.

In several studies victims commented favourably about the victim assistance worker coming to court with them (Grasely et al., 1999; Mahas, 2000, cited in Russell, 2002b; Wan, 2000; Weisz, 1999; Weisz et al., 1998; Whetstone, 2001). In Whetstone (2001), victims liked having the victim advocate with them during the investigation and prosecution of the case.

Some studies reported other ways in which victim services were helpful. In Weisz (1999), advocates advised women to call police if further abuse occurred and some women said that they had called police as a result. In Lyon (2002), many victims felt safer not having to appear in court, but were pleased that could still find out what had happened from the advocate. Lloyd (2000) reported that advocates helped women get extended stays at shelters for women. In Grasely et al., (1999), victim's assistance staff facilitated victims meeting with the Crown attorney.

Concerns about the lack of service provided were noted in two other studies. Some Aboriginal women in McGillivray and Comaskey's 1999 study did not get follow-up with the advocates after the court case and the advocates were too busy to help much. A few

respondents to Weisz et al.'s 2004 study that advocates did not do enough or were not available.

Two Canadian studies identified difficulties with accessing victim services. Russell (2002a) argued that the three types of services: police victim services, Crown victim/witness services, and specialized community-based victim services offer different services and coordination is needed between them. In a crisis, police victim service workers can support victims quickly. Victims may become comfortable with this person and not want to be "transferred" to someone else. As well, victims can get lost in the process of being transferred to another worker. However, no victims complained of having too many people offering to provide service, though victims liked victim services (and other services) calling them instead of having to make the call themselves. Mahas (2000, cited in Russell, 2002b), in interviews with women who had accessed victim services at either multi-cultural or aboriginal services, found that some victims had difficulty accessing services. In Russell's (2002a) study, victim service workers reported that often victims did not get the services they needed because they were only available in English. Some victim advocates frequently acted as interpreters, which they thought made them less effective as advocates.

4.7 Victims' Satisfaction with Probation and Parole

Only Roberts' 1996 Yukon study examined victim satisfaction with probation or parole. Of 17 victims who had had experience with probation officers; 12 were dissatisfied with enforcement and follow-up. Numerous reports have noted victim dissatisfaction with aspects of probation or parole, including Ames and Dunham's 2002 American study, based in part on 24 victim interviews, and Ingratta and Johnson's 1995 Canadian study, based on interviews with three probation officers.

Probation officers contacting victims was seen as positive and even as a deterrent to further abuse. The three probation officers interviewed for Ingratta and Johnson's (1995) study reported that victims were usually grateful for the contact, which is a protocol for Toronto probation officers. As well, a few women told the probation officers that their partners' behavior had changed because they knew the women were being contacted and would report abuse. The officers also reported that about 50% of victims called them monthly, though another 40% never called again after their initial contact with the probation officer. Sometimes the probation officers were able to establish rapport with victims and provide support. A few respondents (n=6) to Prairie Research Associates' 1994 study recommended that probation officers contact all partner abuse victims to find out whether the offender is complying with the conditions of the order. A probation officer interviewed for Russell's 2002 study commented that, though victims do not always want to talk to probation officers, it is important to keep victims informed and that victims can provide valuable information.

Women who were not being informed of when their partner was released from jail or when bail was granted became an issue that was identified in two Canadian reports (Alberta Law Reform Institute, 1995; Canadian Panel on Violence Against Women, 1993). One of the protocols developed in the 1990s for Toronto probation officers was that officers must inform victims of offenders' release dates. But soon after this protocol was introduced it was determined that this violated the offender's right to privacy (Ingratta & Johnson, 1995). Related concerns voiced by respondents to the 1993 Canadian Panel on Violence Against

Women were that parole boards did not consider the danger to women of issuing day passes and that adequate protection was rarely provided to victims after offenders' release.

Canadian studies also reported that the penalties for breaching probation were not sufficient (Canadian Panel on Violence Against Women, 1993; Prairie Research Associates, 1994; Russell & Ginn, 2001). Some respondents recommended offenders who breach probation receive jail time (Canadian Panel on Violence Against Women, 1993; Russell & Ginn, 2001).

Studies reported mixed perceptions from victims on the value of treatment while abusers were on probation. Ames and Dunham (2002) reported that victims generally wanted their abusive partners to receive treatment. However, some respondents to the 1993 Canadian Panel on Violence Against Women argued that the probation period is not long enough for supervised counselling to be effective.

In two Canadian reports, women believed that probation officers were not properly monitoring offenders or enforcing orders (Canadian Panel on Violence Against Women, 1993; Roberts, 1996). In Roberts' (1996) Yukon study, of the 17 victims who had had experience with probation officers, 12 were dissatisfied with their enforcement of the probation order.

4.8 Conclusion

Based on the research reviewed in this chapter, it is apparent that the women victim's satisfaction with various elements of the criminal justice process varies. Overall, most victims are fairly satisfied with the police response to domestic violence but recognize that there is room for improvement, particularly with regards to their attitude towards victims and their policies around dual charging. Women discussed turning to police in order to increase their sense of safety, which did not always stem from their intervention.

The research on the court system showed that women are likely to be dissatisfied with various aspects of this process. For instance, women may feel revictimized, like they are lacking information, and that they lack control over the process. This is caused by long waiting times, disrespectful prosecutors and/or judges, and lawyers who provide little information to their clients. Not all women want to see their partners charged and put in jail, making it important for the criminal justice system to assess each individual's desires for her partner when reviewing the case.

While all victims may face many barriers upon entering the criminal justice system for domestic violence, Aboriginal, immigrant, and refugee women may face additional difficulties. Language and cultural barriers, lack of information about resources, and financial burdens are just some of the key challenges that these women may encounter. Thus, while the criminal justice system has become more responsive to domestic violence, the reviewed research shows that there are still changes to be made in order for women to feel comfortable turning to them in times of need.

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