

To do a proper investigation, the police should look into you and your partner's backgrounds, hospital records, photographs of past injuries, and statements from family, friends, and neighbors. These could show who is the "dominant aggressor" (the person who actually did the abuse). It is important to tell the police that the history of abuse should be investigated before they charge.

If you need an interpreter, let the police know. If they are not willing to get you an interpreter, you can ask them to give you a chance

9

to ask a friend, family member, or neighbour to interpret.

Dual charging can cause immediate problems for children, as the Children's Aid Society may remove them and place them in care if their parents cannot find friends or family members to care for them. In addition, if someone gets charged for the first time, they may not be able to get legal aid. This can cause trouble for a woman charged for the first time, but if her abuser has been charged before, s/he might be able to get legal aid.

10

Many women plead guilty because they may:

- want to get it over with;
- not have a lawyer;
- be embarrassed;
- be afraid of the abuser; or
- want their children back.

Pleading guilty will cause a criminal record to be created on you, which might affect you in family court (custody or child protection cases), immigration proceedings (e.g. deportation), and employment opportunities (e.g. hiring or promotion). Women who have been charged may also be unable to access the services of the Victim-Witness Assistance

11

Program. For these reasons, it is important for women who have been wrongfully accused to think about pleading "not guilty" to a dual charge and working with a lawyer to show that their partner is the main abuser and, if the woman did fight back physically, she was acting in self-defense.

12

Resources

Ontario Women's Justice Network

www.owjn.org

Assaulted Women's Helpline

1-866-668-8900 (toll free)
1-866-863-7068 (TTY)

Women's Legal Drop-In

613-569-2236

Anishnaabe-Kwewag Gamig, Alderville Women's Shelter

1-800-388-5171 (toll free)

Toronto Rape Crisis Centre

416-597-8808

13

Aboriginal Legal Services

803-415 Yonge Street,
Toronto, ON, M5B 2E7
416-408-3967

Legal Aid Ontario

1-800-668-8258 (toll free)
www.legalaid.ca

Shelters www.shelternet.ca

Legal Aid Ontario (Toronto location)

375 University Avenue
Suite 404, Toronto, ON
M5G 2G1
416-979-1446

14

Sexual Assault Centres

www.ocrcc.ca

Sexual Assault/ Domestic Violence Treatment Centres

www.satcontario.com

15

Notes

16

Women who experience violence often fear reporting it to authorities for many reasons. They may be ashamed that they are facing violence, especially at the hands of someone they love or have loved, and they may be afraid of possible consequences such as:

- removal of their children by child welfare authorities;
- deportation because of immigration status;
- police minimizing the abuse; and/or
- police arresting or mistreating them (verbally and physically)

1

and/or their partners, especially if they are LGBT, Aboriginal, poor, struggling with addiction/mental health issues, or are racialized.

The criminalization and imprisonment of women because they have reported violence can strengthen myths that many people believe, including ideas that:

- women who experience violence from their partners or family must have done something to deserve it and
- violence against women is “private” and

2

women should not report it to anyone.

It can also heighten the mistrust women have of police and other authority figures. It can cause women who are more isolated (e.g. because they are new immigrants, LGBT, or living in rural communities) to be rejected by their communities and less able to access support services. Finally, criminalization of women experiencing violence can also make their existing mental and physical health concerns worse, especially while they are in custody or are imprisoned.

3

Mandatory charging

In Ontario, the police have to lay charges in domestic violence cases as long as there is evidence that an assault has taken place. This is called “mandatory charging.” Women cannot ask to have the charge(s) cancelled - only the Crown Attorney can do that. The primary goals of mandatory charging are:

- removing blame from the person reporting a domestic assault;
- increasing the reporting of incidences of domestic violence; increasing the number of

4

charges laid in domestic violence matters; and

- reducing the risk of harm to the victim through re-offending by the abuser.

5

But mandatory charging can have a negative impact on women, especially those who fear it will cause more violence or do not want the legal system to make decisions for them. In some situations, a call to the police can save a woman’s life, while in other cases, it can put her in more danger. Once the police have been called, the woman also has little control over what

happens. Other options a woman can consider include getting a restraining order or a peace bond to force her abuser to move out of her home or to stop the abuser from contacting her.

You can obtain a restraining order from a Family Court judge. The judge will order that your partner or family member stay away from you and have no contact with you. You can also get a peace bond from a Justice of the Peace in provincial court, which will have the same effect. Please note that a peace bond can also protect your property.

6

For more information, see the pamphlet on “no contact orders.”

Dual charging

“Dual charging” happens when a police officer charges both people when they respond to a domestic violence call. Some statistics show that police are charging women more and more during domestic assault calls despite the fact that, in most cases, women are acting in self-defence to protect themselves and/or their children. Women in same-sex relationships are particularly vulnerable to dual charging because

7

of prejudice they face and the fact that police do not always know much about lesbian relationships. Aboriginal women and women of colour are often treated like men in cases of domestic violence, as they are rarely seen as “meek” and “defenseless” the way white woman are more often seen. In incidents involving women who are racialized and in same-sex relationships, the police tend to charge both partners instead of doing a proper investigation to determine who is the main abuser in the relationship.

8

The information in this pamphlet is general legal information only. You should get legal advice about your own situation.



158 Spadina Road
Toronto, ON, M5R 2T8
Phone 416-392-3135
Fax 416-392-3136
www.metrac.org
info@metrac.org

Resource funded by



Produced December 2008