

**DOMESTIC VIOLENCE : Spousal Abuse**  
By Claudia C. Belda  
2006

November 23, 2006 was the International Day for the Elimination of Violence Against women. It was also the province of Alberta's Family Violence Prevention Month. In honour of those, we thought it would be fitting to write an article about violence against women and families in order to increase education and awareness of this very serious issue.

**What is Domestic Violence?**

The definition found in Legal Aid Ontario Policies indicates that , “Domestic abuse is physical abuse of violence and includes psychological, emotional abuse and intimidation. Domestic Abuse may include one particular incident of violence, or it could be a longer history of abuse.”

Domestic violence is a general term that is used to describe the abuse that occurs within a family. It includes child and elder abuse, as well as spousal abuse.

Specifically, violence against women has been defined by the United Nations as “Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivations of liberty, whether occurring in public or private life.

**What are Some Examples of Domestic Violence?**

Regardless of what type of abuse you are referring to, it usually includes the following:

- Physical Abuse (slapping, punching, kicking, choking, being slammed against the wall, injury with a weapon or object, brutal beating that result in bruising, lacerations, broken bones or death);
- Psychological Abuse (threats of violence against you or your children, friends or relatives, harassing calls or visits, destruction of possession, and suicide threats by the abuser).
- Emotional Abuse (ongoing criticism, name-calling and insults in front of people or alone, unjust blaming, false accusation about loyalty, control of your time, money, and activities);
- Sexual Abuse (rape, forcing one to perform sexual acts against one's will or hurting someone when doing so).

**Some Statistics on Spousal Abuse**

- Women under 25 are at the greatest risk to be killed by their male partners.
- Young women between the ages of 15 and 19 are twice as likely to be killed than older women in a violent marriage.
- In a study by the Canadian Research Institute for the Advancement of Women, it was shown that 43% of women reported at least one incident of unwanted sexual touching, forced or attempted forced sexual intercourse or being forced to perform

acts of a sexual nature before the age of 16.

- Approximately 7% of women have encountered spousal abuse in one form or another.
- People whose partners are heavy drinkers are six times more likely to experience spousal abuse.
- Perpetrators of violence against women are almost always exclusively men.
- Physical abuse in relationships is accompanied by psychological and verbal abuse. In one quarter of cases of domestic violence, the women are also sexually assaulted.
- In Canada, 40 to 70% of female murder victims are killed by their partners.
- Women are at a greater risk of violence from men they know.
- First Nations people are three times more likely than the rest of Canadians to be victims of spousal abuse. Approximately 24% of First Nations women have reportedly experienced violence from their partners. First Nations victims are also more likely to allege abuse in violence in the form of choking, beatings, threats with a gun or knife and sexual assaults.

Actually some studies believe that in some northern Aboriginal communities, the number of battered women is between 75% and 90%. In addition to that, a study carried out by the Aboriginal Nurses Association of Canada, found that the three leading factors of that lead to violence in the North are alcohol and substance abuse, economic problems and intergenerational abuse.

### **Facts About Women at Risk**

Despite the widespread instances of abuse, most victims of spousal abuse do not report it or are afraid that someone will find out. Many victims are focused solely on their survival and as a result they are often in denial of their situation. They tend to minimize or deny that any violence is occurring against them or they start to think that they are bringing the violence onto themselves. They begin to protect the abuser. Some turn to alcohol and drugs as a way to help them cope with the abuse. Many remain in their abusive relationship; a few resort to self-defence or asking for help.

### **What Can You Do if You are Experiencing Violence?**

- Have a safety plan in place.
- Go to a safe place and call the police.
- Ask for help from a relative or someone you trust.
- Look for counseling or other programs that can help you understand your situation.
- Call a crisis help line to discuss your situation in anonymity.
- Go to a shelter, if one is available near you.

### **Your Legal Options**

In Canada, some abusive actions are considered to be against the law. There are usually three types of crimes that an abuser can be charged with, and most can be found in the Criminal Code of Canada:

- Assault : this is used in cases where force is applied to another person's body

without consent. A person can be charged even if there is no actual physical injury or even in cases where there was only a threat of injury. Specific charges under this type include assault, assault with a weapon, aggravated assault and assault causing bodily harm.

- **Sexual Assault:** this includes any type of sexual activity carried out without consent. Marriage is not a defence for this charge. Kissing, touching and rape all fall within this category. Sexual assault, sexual assault with a weapon, aggravated sexual assault and sexual assault causing bodily harm are examples of this type of charge.
- **Other Charges:** If your partner is calling you non-stop, making threats or stalking you, he or she can also be charged with criminal harassment or uttering threats. Other charges that can be laid in this context include firearm offences if your partner has threatened you with a gun or discharged one.

You should be aware that the police have a zero tolerance policy in place for domestic violence; that means that your partner will most likely be charged, whether you want to or not, if the police find that there are reasonable and probable grounds. In addition, in some cases, depending on the facts of the situation, the police may choose to arrest both partners. In that case, you have the right to know why you were arrested and to contact a lawyer right away.

### **What Happens After a Charge Has Been Laid Against Your Partner?**

Depending on the facts of your situation, your partner may or may not be arrested. If your partner was taken into custody, he/she may be released right away or he/she may have to have a bail hearing. At the bail hearing, a Justice of the Peace will place some condition for release upon your partner in order to protect your safety and address any concerns the court may have.

It is very important at this stage that you let the police and the court know about your safety concerns in order for them to make conditions that will protect you. Some examples of condition that may be imposed on your partner include conditions preventing him or her from contacting you, your children or your family members, conditions that keep him or her away from certain property such as your home or workplace and weapons prohibitions.

If you are aware that your partner has broken any of the conditions, you can call the police. He will be charged with another offence.

### **Additional Options**

In the case that your partner was not arrested or charged, and you do not want to press charges against him or her, but you are still living in fear for your safety, you still have recourses.

You can apply for protection or “no contact” orders, such as restraining orders or peace bonds. These orders prohibit your partner from doing certain things like contacting you or keeping him away from you.

Restraining orders only apply to partners or ex-partners and can only protect you and your children. It cannot protect you from threats or damage to property. They may or may not have time limitations; they can last a few days or several months. However, restraining orders can be hard to enforce, their penalties are not very harsh and are hard to enforce, and it can be complicated to get one. You usually need a lawyer to apply for one on your behalf. However, you do not have to go through the police in order to get one. If you choose this option, remember to ask your lawyer to request that the restraining order have a paragraph that says it can be enforced by the police.

Unfortunately, restraining orders have a time limitation of one year.

Peace bonds cover both threats and harm to yourself, your family members and your property. Your partner will be asked to sign the peace bond and if he breaches it, you can call the police and have him charged with a criminal offence.

Peace bonds do not require a written application, the penalties are more severe than those for breaching a restraining order and the peace bond is entered into the police's computer system, thus making it easier to enforce. However, do not sign a mutual peace bond with your partner, if you can help it. Sometimes, partners try to get their spouses to breach a mutual peace bond and then will call the police and have them charged.

You cannot get any of these orders without evidence. So if you are trying to get a protection order, you need to keep all records regarding your abuse and injuries including medical records, photographs, etc. Also, you need write down and document every time that you are abused, harassed or threatened in detail. This will help make your case.

If you want to change the terms of your restraining order, you will have to bring a motion in court to do so. If you want to change the terms of a peace bond, you need to lay new information. Both can be fairly complicated so you must make sure that you get all of the conditions you need to ensure your safety from the outset.