

# **Guidelines for Police Training on Violence Against Women and Child Sexual Abuse**



**Commonwealth Secretariat**

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## FOREWORD

It is a fact of societies throughout the Commonwealth - and so throughout the modern world - that violence against women and child sexual abuse are at or near the pinnacle of contemporary social concerns. Almost universally, violence against women is at wholly unacceptable levels, and inevitably it falls to the police to cope with its difficult and delicate aftermath. About levels of child sexual abuse it is difficult to be categorical. Wherever public debate on the issue has been generated, the incidence of child abuse - both past and present - has been shown to have exceeded by far all previous estimates of it. Again, where such incidents are reported it falls to the police to handle situations in many ways even more delicate and even more difficult than those of violence against women. Because it is so difficult to handle these cases, because the investigatory process can actually compound their effects, and because the problems are so serious, Ministers of Women's Affairs have quite properly placed them high on the agenda of our Women and Development Programme.

It is comfortable to relegate violence against women in particular to the category of failures in communication between the sexes; very often between husband and wife. It is rather less comfortable to view the problem as a structural issue - as arising out of social-cultural beliefs that women are by nature inferior to men, and so are undeserving of equal respect. Seen in this way, violence against women is more than a matter of an assault by the physically stronger on the physically weaker. Rather it can be seen as an ultimate weapon which actually prevents a woman from developing her true potential, and from contributing to society to the best of her ability.

In the past four years the Women and Development Programme has shown a consistent commitment to the issue of violence against women. In 1984, the first Meeting of Commonwealth Officials for Women's Affairs here in London directed the Programme to prepare a pan-Commonwealth compendium of approaches on the issue for the benefit of Commonwealth Ministers of Women's Affairs for their first meeting in Nairobi in 1985. Ministers mandated the Programme to hold an Expert Group Meeting on Violence against women. This was held in September 1985. Its conclusions formed the framework of the Manual "Confronting Violence", which was published before the Second Meeting of Ministers for Women's Affairs in Harare in 1987 and which has been received with acclaim in Commonwealth capitals.

Both Ministerial Meetings and the Expert Group recognised that training of personnel intimately connected with the issue of violence against women - lawyers, social workers, medical professionals and police - was crucial in any strategy to confront such violence. Such training has already begun. During 1986, Staff Sergeant Robert Holmes of the Royal Canadian Mounted Police conducted training sessions for police in Malaysia and Singapore, while in May 1987, an Expert Group Meeting was convened in London to prepare appropriate curriculum materials for the teaching of Commonwealth law students.

These initiatives were continued at a pan-Commonwealth Police Training Workshop on Violence Against Women and Child Sexual Abuse which was organised by the Women and Development Programme in June 1988. It was attended by senior police officers from sixteen member governments. They endorsed a variety of measures for responding to victims of violence, including the provision of centres for treating victims of rape. It is hoped that this Manual, which is based on the conclusions of the workshop, will enable police officers throughout the Commonwealth to provide more effective assistance to women and children who are victims of violence and sexual abuse.

M. MALHOUTRA  
Assistant Secretary General

## INTRODUCTION

All regions of the Commonwealth share a common problem: violence against women and children. This violence, which takes various forms - physical, sexual, psychological - although sometimes perpetuated by strangers, is far more frequently inflicted by those with whom women and children should have their most trusting relationships - members of their family, be they husbands, lovers, fathers, brothers, uncles or grandfathers. Research into the causes of this violence, research which is relatively new and which stems, in the main from Britain, the United States, Australia and New Zealand, indicates that much remains to be understood about the nature, causes, extent and treatment of this violence. Research reveals that a major problem exists, but studies are too imprecise to answer important questions such as who is most at risk and how resources can be allocated most effectively. Information with respect to treatment programmes remains fragmentary. Certain types of intervention appears to be effective, but yet more data is required.

Primarily, the solution to the problems of both domestic violence and child sexual assault has been seen in terms of legal intervention. Here, the role of the police has been regarded as crucial, it being the only agency offering a combination of the coercive power of the state and accusability. Indeed, in many countries the only service available to battered women, for example, twenty-four hours a day and seven days a week, apart from hospital accidental units is the police. Moreover, unlike other social services, the police force offers an emergency telephone system and comprehensive geographical coverage.

Although the role of the police is critical, research which exists suggests that police response to domestic violence and child sexual assault is often inadequate. The reasons for this are various. First, the police underestimate the incidence of these abuses. Second, police are reluctant to intervene in what they are led to regard as "domestic problems". This can be for various reasons: out of respect for the privacy of the family, because of a mistaken vision of marital rights, because they believe the victim has "provoked" the violence, because they do not foresee a successful prosecution and, finally, because the police prefer to treat domestic crimes differently from crimes in other contexts, responding by mediation rather than law enforcement.

There is no doubt that the police role in the management of domestic violence and child sexual assault is ambiguous and the task very difficult. Much of the ambiguity and difficulty arises from conflicts within the rest of society and the entire legal system which all combine to underestimate and trivialise the abuses, removing them from the preview of the criminal system, relegating them to a ragbag of "social problems".

Ultimately, these ambiguities and difficulties will be removed only when all societies totally condemn wife and child abuse. In the short run, however, police management can be improved with adequate and new legal powers of entry, arrest and bail and well defined police policies which provide the individual operational officer with clear protocols to govern his or her response to the issue.

Police response will not, however, ever be adequate in the absence of proper training. Although domestic assault and child sexual abuse makes up a large proportion of police work and although the work is unpleasant, difficult, sometimes dangerous and always stressful for officers, very few jurisdictions

provide specific and adequate training to equip them for this task. It was in the light of this that the Women and Development Programme (WDP) of the Commonwealth Secretariat which mandated by Commonwealth Ministers for Women's Affairs at their meetings in 1985 and 1987, views violence against women as a priority area for action, in June 1988 called together senior police officers - in the main, Commissioners of Police and Senior Assistant Commissioners - from sixteen Commonwealth countries, representing the four regions of the Commonwealth to address the question of police training on violence against woman and child sexual abuse.

This Manual represents a compilation of the deliberations of the Workshop, it being the hope of WDP that it will assist police forces throughout the Commonwealth in their training programmes and techniques.

### How to Use the Manual

The Manual addresses the six issues discussed at the meeting and is thus divided into the following sections:-

1. Police attitudes and sensitisation
2. Perspectives on offender profiling
3. Evidence and investigation techniques
4. Medical and forensic evidence procedures
5. Liaison with non-police organisations and referral agencies
6. Statistics, data collection and case management.

Each section summarises the discussions of the Police Training Workshop on the particular issue. Some issues were discussed following a specific presentation on the issue and where this is the case, the presentation has been included. Some, on the other hand, were discussed generally. The discussion of each issue raised specific recommendations, while a series of general recommendations, which participants felt were of paramount importance in the training of all and any police force in the Commonwealth, emerged during the course of the workshop. The general and specific recommendations appear as "Guidelines" in the Manual. The "Guidelines", however, do not claim to be exhaustive and are to be viewed in the context of each particular jurisdiction. The Manual, further, includes training modules used in police training in Great Britain and Canada. These have been included, not as models, but rather as examples of approaches to training that particular jurisdictions may wish to consider in the preparation of their own country and culture specific training packages. The Manual also includes in Appendix 1 two background papers which discuss the role of the police in domestic crime and finally, in Appendix 2 a number of country reports which highlight the fact that each Commonwealth jurisdiction, although showing the same problems of wife abuse and child sexual assault, have differing concerns and constraints.

## GUIDELINES FOR POLICE TRAINING

### GENERAL RECOMMENDATIONS

- \* The issues of domestic violence, sexual assaults on women and child sexual abuse are acknowledged as serious problems which require priority attention.
- \* Sensitisation of police in dealing with these crimes is essential and must include an assessment of stereotypical attitudes to women and children, particularly with regard to sexual activity.
- \* The crucial role of the police in dealing with the crimes of domestic violence, sexual assaults on women and child sexual abuse must be acknowledged both by the police themselves and society in general.
- \* The police must be provided with clear legal powers in order to provide them with an appropriate base for action. Countries must assess their laws in order to determine whether they provide the police with adequate powers.
- \* Laws in all their forms and legal procedures must be assessed and reviewed in order to achieve systemisation and coherence.
- \* The importance of inter-disciplinary cooperation in dealing with reports of violence in the family, sexual abuse of women and child sexual abuse must be emphasised. This approach can be achieved in a number of ways, appropriate to the country's socio-economic and cultural contexts.

An inter-disciplinary approach could:

- be established as committees at varying levels
- consist of committees typically comprising;

senior police  
welfare officers  
psychiatrists  
medically qualified persons  
legal individuals

aim to:

monitor the legal system  
initiate reform where appropriate  
suggest establishment of such committees at lower/higher levels

- \* Clear lines of responsibility and accountability must exist within the structure of a multi-disciplinary approach.
- \* The mass media, in all its forms, must be fully utilised in both public education of the issues and in shaping social attitudes.

\* The protection of women and children who are at risk from family violence, and from sexual and other abuses must be ensured. This should include the provision of safety, security and basic human needs.

\* The exchange of information on police methods and technological know-how should be encouraged between police stations within a country, and between police forces Pan-Commonwealth. Training exchange programmes within and between Commonwealth regions need to be promoted.

\* A reporting system needs to be established which will enable health, welfare and education sectors to report on sexual abuse cases (especially child sexual abuse).

\* All agencies should keep the victim as a primary focus of concern, particularly bearing in mind the victims physical and mental needs. A victim-centred approach:

- will ensure that the victim's privacy is maintained;
- might consider in-camera trials in order to minimise trauma to victims during court trials;
- will ensure that the Press is made accountable;
- will ensure the protection of and maximum security for victims from any confrontation with offenders, be it at court or at an identification parade.

\* Public education is an integral part of any strategy to confront violence against women and child sexual abuse. It must be promoted in all possible ways. Public Education is critical to close the gap between legal provision and practice.

\* It is important that the police be involved in the promotion of public education programmes. This involvement could take the form of:

- talks to interest groups at various levels;
- talks to schools and other educational institutions;
- inter-disciplinary seminars and colloquims;

**SECTION I**  
**POLICE ATTITUDES AND SENSITISATION**

## **Section I: Police attitudes and sensitisation**

The role of the police in strategies to confront crimes against women and children is crucial and central. Research from Canada, the United States and Britain has indicated, however, that the response of the police has not always been as satisfactory as it could be, crimes against women and children being treated with less seriousness than crimes against men or property unless the manifestations of those crimes were particularly serious. Thus, in general, the criminal justice system has been resorted to only unusually in crimes involving women and children that occur within the home, the police preferring to take on the role of conciliator or mediator in these circumstances.

The unsatisfactory response of the police in this context has had various effects, the most important being that women themselves who have been the subject of such treatment within the home are not confident of the response of the police, being of the view that the police will not treat their complaints with the seriousness that they deserve. This has meant that women are wary of reporting any such crime to the police. This results in the woman suffering further victimisation.

It is important that the police response in this area is more sensitive and effective both so that the individual complainant can be assured of an appropriate and useful response and also so that societal attitudes towards activity of a violent nature can be shaped to the position that such activity is regarded as unacceptable.

Police response in this context is a result of a number of factors, including the wider societal trivialisation of violence in the household, but can be ameliorated if the attitude of the police is more appropriate and if the police are sensitised to the particular crimes and their role in the resolution of such behaviour. Fundamentally, attitude change within the police must stem from two strategies. First, the seriousness of crimes against women must be acknowledged by each police officer, through informal force norms and through formal force policy and second the crimes must be viewed from a victim centred philosophy, where the question to be addressed will be what do such complainants want.

The acknowledgement of crimes against women and children by each officer, informal force norms and informal force policy interacts and produces a more sensitive policing system. Such interaction can be achieved by the recruitment of particular officers such as women or ethnic minorities, through training, both at recruit level and later and by placing recruits with trained partners who can act as role models. Peer pressure within police forces is very powerful, providing informal attitude shaping. Such informal norms do, however, reflect the seriousness the formal policy that a force adopts. In the context of domestic violence, formal policy may acknowledge the seriousness of the behaviour by advocating a charging policy, thus removing the onus of laying an information against the offender from the woman or a pro-arrest policy. Formal policy could also stress the importance of maintenance of careful records, so that the seriousness of the behaviour and the adverse effects it has on individual women and children and the wider community become clearer. Such record keeping will also serve as a tool for attitudinal change within the police, it being the case the police will acknowledge the existence of a problem revealed by records.

Police attitudes are, however, merely a reflection of attitudes held within the community. Fundamental change and the acknowledgement of violence against women as serious issues will only occur within the police if it also occurs within the community. Community attitudes must be addressed by education of a formal and informal nature occurring at all levels, from primary school to the professions. It is critical here that the legal profession receive sensitisation so that the seriousness of the issues is reflected in trial procedure and sentencing practice.

Within the police itself, attitude sensitisation will only occur through appropriate training. This training must be appropriate to the economic, social and political context of each system. High level officers must be sensitised to issues of family violence and encouraged to adopt a victim centred approach to the investigation of such crimes. The status of police work in regard to these crimes should be raised so that the crimes are not trivialised. Higher status could be provided by providing financial and promotional incentives to officers who revealed an appropriate response to crimes of this nature. In general serious attention should be given to training at all level. Police forces, further, should take advantage of help that they might receive from the community. Thus, for example, women's groups could be involved in police training. So also should the police attempt to train within the community, explaining their perceived role and practice to community groups and schools.

Police training can be enhanced by the use of particular tools. Thus for example, video training could be used and kits and protocols and systems such as victim examination suites.

Training is critical and must be accompanied by the recruitment of officers who can come to the force with particular skills for crimes involving women and children. Women for example, must be recruited as officers, forensic scientists and police surgeons. Where they are recruited, however, they must be trained and so must the male members of the force, it being essential to recognise that the recruitment and training of women officers will not change the perspective of all members of the force and that the training of women officers alone will place too much strain and responsibility on a certain section of the force.

Training and appropriate recruitment is an ongoing process. It is important for all forces to recognise that training must be continuous. New information regarding crimes against women - such as the existence and effect of the rape trauma syndrome - is revealed continually and must be passed on to all officers as it is revealed.

**SECTION II:**

**PERSPECTIVES ON OFFENDER PROFILING**

## Section II: Perspectives on Offender Profiling

Offenders profiles can frequently be used as a tool in investigation of crime. Paedophilia and the profile of the paedophile was used as a case study so that the meeting could be made aware of the value of offender profiling in the context of sexual crimes against women and children.

Paedophilia manifests itself in a range of criminal behaviour from using the child as an object of pornography to murdering the child. Paedophilia, an unrecognised, unreported and unaddressed crime, even among police, underpins and is a common theme in child pornography, child molestation and child prostitution. The paedophile is predominantly male, although there are rare cases of female offenders, and falls within three classes:-

- (i) collector/toucher: who collects child pornography and will touch children, in any way
- (ii) collector/abuser: who collects, touches and ultimately abuses children
- (iii) collector/abuser/publisher: who collects pornographic material, abuses children and publishes pornographic material himself.

In terms of offender profiling, the paedophile is an eminently useful case study as he exhibits a long term, persistent pattern of behaviour, the ultimate aim of which is the acquisition of a child victim. In this context, the offender may choose to target single mothers with young children.

A number of factors should alert a police officer to the possibility of a paedophile offender:-

- o convictions for indecency
- o movement within the country or even internationally
- o usually over 25, sometimes married, but more frequently living alone
- o sexual preference for younger persons
- o acquaintanceship with younger persons
- o attraction for professions involving children
- o skill with victims, particularly young people who are neglected or in government care, with whom they can communicate on an equal level
- o although the offender may be a stranger, it is more likely he will be known to the victim, research revealing that this is the case in 75% of cases
- o the offender is skilled in the manipulation of child behaviour, resorting to competition, peer pressure and blackmail
- o most offenders have a preferred child age group

- o almost all offenders have collections of child pornography, which they will show the child to reduce his or her inhibitions and will produce with the help of children attracted.

The paedophile is a particularly insidious offender, usually operating as a part of a 'ring' which at its most basic level is local, but which has national and, ultimately, international, linkage, in that it will subscribe to national and international literature. The 'ring' is very carefully bonded and notoriously difficult to infiltrate, the offence being a way of life for its participants.

The paedophile frequently collects pornography and material, including academic articles, justifying his behaviour. He will also frequently be in possession of letters to and from other paedophiles. These collections serve a number of purposes including provision of sexual fantasy, a means to lower children's inhibitions, blackmail and material for exchange and profit. The collection will often be vast and have been kept for a long period, each item of the collection representing an instance of child sexual abuse.

Often paedophiles were themselves the victims of paedophiles. It is, however, important not to overstate this trend so that it assumes that an abused child will in turn abuse. There are three reasons for this. First, such a suggestion is counter-productive for victims of abuse, who will conclude that their behaviour is predicted for them. Second, it emphasises the victimisation of the abuser and finally, it suggests lower sentencing for abusers who were abused.

**SECTION III**

**EVIDENCE AND INVESTIGATION TECHNIQUES**

### Section III: Evidence and Investigation Techniques

The quality of evidence gleaned in the course of any police investigation must, particularly investigations in the context of sexual assault, predict the outcome of any prosecution. Quality evidence can only be achieved through quality investigation. The London Metropolitan Police in the UK has concluded that quality investigation will only occur where officers are appropriately trained. Training in the specifics of sexual assault is available in this form for all offices of inspector level and all female offices. The primary aim of this warning is to address the myths of rape and introduce officers to rape trauma syndrome. It is believed that much of the attitudinal problems police face with respect to sexual assault stems from the limited legal definition of rape, which may suggest to police that only a very serious physical attack followed by sexual assault will meet the definition. Offices are further attitudinally set by the continued legal requirement of corroboration. Offices are warned that it is their responsibility to make sure the forensic specialists take the right samples.

Offices are also warned to realise that the crucial point of success or failure of a trial for sexual assault will be the demeanour of the complainant in court. As this is so, it is critical to prepare her for what will happen in court and thus the Metropolitan Police works closely with a scheme set up in UK called the "victim support scheme: a scheme which aims to provide by the use of trained volunteer counsellors, support for victims of crime generally.

The Metropolitan Police has no specialised unit to deal with rape and sexual assault, but the investigation is conducted by a detective inspector from the relevant local station. The investigation follows this pattern:-

- 1) Preliminary interview with the complainant. At this point, no statement is taken. This interview is generally short and general, aiming to give the investigation offices an idea of the magnitude of the offence.
- 2) Lengthy interview with the complainant with a woman officer. This can take as long as necessary, the aim being a comprehensive, lengthy statement. If the report is early, a medical examination occurs. This is very comprehensive and will be framed by the statement. Currently, the Metropolitan is developing a protocol to guide the medical examination.
- 3) The scene of the crime, and the woman's clothing is examined. Disposable clothing is provided and in most cases the statement and examination occurs at one of the 'victim examination suites' in London. These seek to provide the woman with a comfortable, non-threatening place in which to make her statement. They are furnished as an apartment would be and include a place for the medical examination, showering facilities and cooking facilities. Care is taken so that the complainant feels individual, thus account is taken of ethnicity and appropriate facilities are provided. Any examination will be conducted, if possible, by a trained woman doctor, if the complainant so prefers.

- 4) The suspect, protected in the UK by the 1984 Police and Criminal Evidence Act, is interviewed. This is recorded contemporaneously in longhand. This is now moving to tape recording as the longhand interview provides the suspect with an advantageous time to think.
- 5) The suspect will be kept out of the same vehicle as the woman and the same station. He will be examined by a different doctor.

Special techniques for investigation may need to be drawn upon where child sexual abuse is concerned. Police need to be aware why children may refuse to report such abuse to anyone and how a 'child centred' approach, incorporating puppets and comics, for example may be effective. However, such effectiveness will depend on the awareness and training of the particular officer. As in sexual assault generally, the statement of the complainant is of crucial importance in securing a conviction. Police must receive specific training so that they can provide the best statement possible which avoids inappropriate language, excludes irrelevant material, is complete and well recorded and does not merely paraphrase the child.

#### Guidelines:

- \* Quality evidence is essential for a successful prosecution. This evidence can only be acquired through accurate investigation. The quality of the evidence and investigation depends on the training of the investigator.
- \* Investigation and evidence collection in sexual assault cases are hampered by the 'myths' surrounding such crimes and legal provisions which unnecessarily limit the definition of such crimes as they impose unnecessary corroboration requirements.
- \* The success of a prosecution for sexual assault may ultimately depend on the quality of the complainant's statement. Specific training must be introduced so that officers are able to provide the best statement possible. Specific problems of investigation and evidence collection and statement taking in cases of child sexual abuse must be addressed and imaginative techniques used to combat such difficulties.
- \* Accurate packaging and labelling of samples are critical. Officers must be trained to appreciate the integrity of samples.

**SECTION IV:**

**MEDICAL AND FORENSIC EVIDENCE PROCEDURES**

#### **Section IV: Medical and Forensic Evidence Procedures**

In cases of sexual assault frequently forensic evidence is critical in securing a conviction. Complainants of such assaults find the experience that they are forced to undergo in order to provide this essential evidence is sometimes as harrowing as the original assault.

A number of countries in the Commonwealth have attempted to ameliorate this problem, seeking to render the medical examination required for the gathering of the vital evidence as pleasant as practically possible. In the United Kingdom two models have emerged one hospital based. Both, however, seek to provide a more pleasant atmosphere in which to examine the woman and both seek to provide her with the most trained forensic expert so that her examination produces the best possible evidence. Further, both seek to put the complainant in touch with other services, such as services for sexually transmitted diseases and counsellors.

#### **Guidelines:**

- \* Forensic evidence is often crucial in prosecutions for sexual offences.
- \* Frequently the circumstances in which such evidence is gleaned predicts the integrity of such evidence.
- \* Forensic and medical evidence may be easily lost. Police training must emphasise the importance of care in the collection of such evidence and the importance of continuity in the control of such evidence.
- \* The training of police and of forensic scientists must be co-ordinated so that each profession is aware of the issues confronting the other.
- \* Medical personnel should be trained in such a fashion that they can supply a support network for the police.

SECTION V

LIAISON WITH NON-POLICE ORGANISATIONS AND  
REFERRAL AGENCIES

## **Section V: Liaison with non-police organisations and referral agencies.**

Sexual assault of women and children are crimes and as such the police role is crucial. However, these crimes are singular crimes presenting problems for the complainants which are not entirely legal and presenting difficulties for law enforcement officials for which they are not adequately prepared. Abused children, for example, lose self esteem and trust and police personnel are not trained to deal with this. In sexual crimes, also, follow-up treatment of the complainant is essential. Although an investigation may appear to be complete and conviction acquired, treatment of the abuse will not be until well after the trial. Because of the singular nature of sexual crimes, effective case management and investigation may require co-ordination with non police agencies, such as social services.

The police have had significant experience of co-operation and co-ordination with hospitals and medical personnel, but co-ordination with other agencies is more recent. In some jurisdictions, this co-ordination has been taken so far that investigation of child sexual abuse is undertaken jointly by the social services and police (see, for example, H.M.S.O: Child Sexual Abuse: Joint Investigation Project: Final Report: London: 1987). While in most co-ordination has been confined to using counselling agencies to help complainants come to terms with the assault. No matter what form the co-ordination takes, careful management is essential. A multi-disciplinary approach is very valuable in the context of sexual crimes, but careful protocols must be introduced to prevent the complainant from being 'revictimised' by having to repeat her complaint to a number of agencies. Clearly, training of all agencies involved is essential, it being particularly essential that other agencies be trained to understand the police perspective. Critical also is the development of clear protocols to encourage sharing of information between agencies but which protects confidentiality at the same time.

### **Guidelines:**

- \* Sexual crimes are singular crimes requiring the use of skills beyond those of the police. Such crimes benefit from a multi disciplinary approach.
- \* Liaison with non police agencies must be carefully managed both to protect the complainant and achieve the best results for her.
- \* This liaison can be important not only in the management in particular cases but also as a means to train the police and other organisations. For example, perspectives of rape crisis centres should be well known by the police and taken account of seriously.
- \* Liaison with other agencies requires face to face meetings to encourage interagency co-operation and to tease out any misunderstanding which may develop between different disciplines.

\* Police, non police organisations and referral agencies should share as much information as possible, at all times protecting the confidentiality of the complainant.

\* Care should be taken to determine whether the concept of confidentiality is being used at the expense of the complainant.

\* While police should closely liaise with non police bodies in the context of sexual crime, it must not be forgotten that these assaults are criminal and must be prosecuted. It is essential, therefore, that the police retain control in any situation where liaison is advocated.

**SECTION VI**

**LIAISON WITH NON-POLICE ORGANISATIONS AND  
REFERRAL AGENCIES**

## **Section VI: Statistics, Data Collection and Case Management**

The problems of domestic violence and sexual assault can only be addressed adequately where there is a reliable data base revealing the seriousness and extent of the problems both nationally and internationally. In this context, it is important to discern that a data base can be used for a number of different purposes. It can alert police, who often underestimate the seriousness of the issues, to the extent and importance of the problems. It can be used to justify the expansion of police operations, to justify funding and resources and for a tool to be used in the analysis of the aetiology of the abuse. However, here it is important to note that police statistics and any data produced from them will only be as valuable as the original information provided. Thus, if there is a flaw in the original collation - for example, if crimes of violence are not recorded in such a way to include information to the relationship of the offender to the victim - the data base will reflect that flaw and be limited thereby. It is clear that police collection and use of statistics can be improved upon and it is further clear that criminal statistics need not be collected by the police alone. Here it is important that the value of 'victim surveys' which randomly assess the level of victimisation in the community be appreciated. So also, it is important that police appreciate that statistics are collected and collated by the social services, medical personnel and private organisations, such as women's groups. Sharing and comparative analysis of information from whatever source is extremely valuable, providing clear information as to required services. Here it is important to note that openness of police recording serves to give the police credibility and also serves as an informal monitoring process for the police, improving reporting and flow of information within the police.

A number of important issues arise in the context of practical statistic collection. First, it is critical to monitor the implementation of amendment to the law, so that critical analysis of whether the new law is being adhered to correctly can be made. This should reveal the value of the particular reform strategy. Second, operations offices involved in cases and statistical collection should be given feedback on the management of such statistics, so that they do not get the impression that they provide information into a vacuum. Thirdly, data should be collected prospectively, rather than retrospectively at all times respecting confidentiality. Data should be collected in an institutional fashion in a centralized form. This data should be collected at all levels - local, state, national and international - and collated and analysed as a basis for short term and long term strategy. Data should be collected at all stages of the progression cases so that the final picture of cases can be linked with police investigating procedures. This will have the effect of pointing out any weaknesses in police investigation and procedure. The most important issue, however, with regard to statistical collection is that definitions are carefully delineated as any form of monitoring without careful definition will be misleading and ultimately meaningless.

### **Guidelines**

\* A statistical data base is essential to shape responses to the issues of domestic crime. This data base will also provide a basis to urge legislative change and to monitor effectiveness of current and amended laws. This, in turn, provides accurate information to shape appropriate legal change.

\* Clear definitions must be used when gathering data.

- \* Data should be collected continually and prospectively at all levels: local, provincial , national, regional and international.
- \* Data should be culled from sources other than the police.
- \* Data should be collected from the perspective of the victim and other concerned agencies, as well as from the perspective of the police.
- \* Data and statistical information must be shared with other agencies and be analysed by qualified statisticians so that trends and areas requiring further research are quickly identified.
- \* A code of ethics governing the collection, use and sharing of statistical information and other data should be developed. This code should particularly reflect the importance of confidentiality to the victim.

## **APPENDICES**

**APPENDIX 1: BACKGROUND PAPERS**

**APPENDIX 2: EXAMPLES OF TRAINING MODULES**

**APPENDIX 3: COUNTRY BACKGROUND PAPERS**

**APPENDIX 4: WORKSHOP PARTICIPANTS & RESOURCE PERSONS**

**APPENDIX 5: WORKSHOP SCHEDULE**

**APPENDIX 6: FURTHER READING**

**APPENDIX I**  
**BACKGROUND PAPERS**

I. POLICE RESPONSE TO BATTERED WOMEN

by Dr Jan Pahl

Analysis of the response of the police to incidents of domestic violence raises fundamental questions about the nature of the problem and about the functions of the police and of the law. Under the existing law domestic violence can amount to any of the following offences: murder; manslaughter; any of the assault offences in the Offences Against the Person Act 1861; and a common law breach of the peace. It is important to remember that all assaults which take place in people's homes are likely to be described as "domestic disputes" when the call for help arrives at the police station; it is not until a police officer arrives at an incident that the nature and seriousness of the case becomes apparent. The category of "domestic dispute" includes many other types of incident besides the assault of wives by their husbands and it seems likely that the categorisation itself tends to trivalise such incidents. It is rather as if the word "litter" were used as an initial categorisation for all waste from toffee papers to industrial effluent.

In addition, it must be remembered that the police have their own working definition of "crime" which is rather different from that held by most members of the public. With one or two exceptions, "crime" for the police means those offences for which crime complaint and crime report forms have to be completed, and which are appropriately dealt with under the criminal as opposed to the civil law. Thus one concern of the police officer arriving at a "domestic dispute" will be to decide whether the incident will be "crimed" or not. Several studies have suggested that whether a "domestic dispute" is defined as a "crime" by the police depends not only on the severity of the assault, but also on the nature of the relationships between victim and offender. The police are most likely to prosecute in the case of a person assaulted by a stranger in the street, and least likely to prosecute in the case of an assault on a marital partner occurring within the matrimonial home.<sup>1</sup>

However, it is only in the most severe cases that the police deal with cases of wife assault under the criminal law and themselves initiate a prosecution against the offender. This is despite the recommendations of the Select Committee on Violence in Marriage which stated: "We believe that assaults in the home are just as serious as assaults in other places and that citizens who call the police to their home at a time when they are assaulted are entitled to the full protection of the law."<sup>2</sup> If the police are unwilling to prosecute, responsibility for taking action devolves inevitably upon the woman.

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1. C. Coleman and K. Bottomley, "Police Conceptions of Crime and 'No Crime'" [1976] *Criminal Law Review* 334; S E Eisenberg and P L Micklow, "The Assaulted Wife: Catch 22 Revisited" *Women's Rights Law Reporter* (Spring/Summer 1977); H M Field and H F Field, "Marital Violence and the Criminal Process" [1973] 47 *Social Service Review* 221; L Jeffery and J Pahl, "Battered Women, the Police and the Criminal Law" (unpublished paper).
  2. Select Committee Report, *Violence in Marriage*", H C P 1974-75, 553, II para 44.

There are at present two main courses of action open to her. First, she can initiate a private prosecution under section 42 of the Offences Against the Person Act. Such a prosecution can only be initiated on complaint to the magistrates by the aggrieved person and legal aid is not available. This means that not only will a woman have to find a place of safety from which to carry out the prosecution but also that she will have to find the resources to pay for legal advice. A second course of action is to attempt to obtain an injunction against her husband under the Domestic Violence and Matrimonial Proceedings Act 1976. This enabled county courts to make non-molestation orders and exclusion orders, which could lay down, for example, that a husband should not molest his wife, should not enter her home, should not come within a certain distance of the home, or similar conditions. The Act also gave to judges the discretion to attach a power of arrest to the injunction, which means that if the husband disobeys the order the police have the power to arrest him and hold him in custody.

In most "domestic disputes" therefore, the job of the police appears somewhat ambiguous. If there is a relevant injunction with an attached power of arrest their role is clear. Otherwise the police officer has considerable discretion about the role which should be played and the action which should be taken. Should the police officer behave as a "peace keeper" or as a "law enforcer?"<sup>3</sup> How much, and for whose sake, should the privacy of the home be respected? The "privacy" and "sanctity" of the home are cherished values in our society, but in the case of domestic violence it is necessary to look somewhat critically at the extent to which these values are adhered to in practice. It seems that the right to domestic privacy is more easily invoked and defended by some members of society than by others; this differential right to privacy is important in explaining the "invisibility" of wife abuse in most societies and at most periods of history.<sup>4</sup> The Younger Committee, in its report on Privacy, said:

"We have conceived of the right of privacy as having two main aspects. The first of these is freedom from intrusion upon oneself, one's home, family and relationships. The second is privacy of information, that is the right to determine for oneself how and to what extent information about oneself is communicated to others."<sup>5</sup>

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3. M. Banton, *The Policeman in the Community* (1964); B Whitaker, *The Police in Society* (1979).
  4. M. May "Violence in the Family: an Historical Perspective", in *Violence and the Family* (edited by J Martin) (1978).
  5. *Report of the Committee on Privacy*, Cmnd 5012 (1972), p 10.

It is clear that many violent husbands have definitions of privacy similar to these in their minds when they protest against the "intrusion" of police officers who have come in response to an appeal for help from the assaulted wife. The issue of violence between members of the same family raises in an acute form the question of whose privacy is being protected and of whether this protection is at the expense of any other individual. It is significant that the police are often more willing to protect women living in refuges than they are to protect women who are the victims of violence in their own homes.<sup>6</sup>

The research study which is the basis of this paper is carried out in a Women's Aid refuge in a country town in south-east England.<sup>7</sup> Forty-two women, all with children, were interviewed during their stay at the refuge, and re-interviewed again some time after leaving. The great majority of the women were aged between 20 and 30 and most of their children were quite young: it is often when the children start to notice and to be distressed by what is happening between their parents that the mother decides that it is time to make a determined effort to leave. Most of the women had been physically assaulted over many years by the men with whom they lived, often since their first pregnancy or since the birth of their first child: 62 per cent said that the violence had gone on for three or more years. The injuries which they had suffered varied from cuts and bruises, through black eyes, broken arms, noses and ribs, to a ruptured spleen and a fractured skull. Most of the women had also experienced other problems in their marriages: 79 per cent said that money had been a problem area; 52 per cent said that their husbands had drunk excessively; 45 per cent said that their husbands' jealous and dominating behaviour had been a problem; 45 per cent said that their difficulties had been exacerbated by inadequate housing, and 43 per cent of the husbands had at some time or other been in trouble with the law.<sup>8</sup> Part of each interview was concerned with these previous attempts to get help, and questions were included about the help the woman felt she had received from informal sources, such as her family, her friends and neighbours, and her husband's family, and from more official sources, such as doctors, health visitors, solicitors, social workers and the police. Thus the parts of the interviews concerned with the police comprised only a part of one section of the interview.

Before they went to the refuge 30 of the 42 women had contacted the police for help, some of them doing so many times. A number of those who had not gone to the police had considered doing so but had decided against it because they did not think the police would respond. Joy said: "My mum called them in when I was a child and they just said 'it's a family dispute, there's nothing we can do'. So I didn't think it would be worth it". Nancy said: "I'd heard of other people who had broken arms, broken noses, blood everywhere, and the police hadn't been interested. So I never bothered."

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6. J. Pahl, *A Refuge for Battered Women*, HMSO (1978); R I Mawby, "A Note on Domestic Disputes Reported to the Police" (1979) 17 *Howard Journal of Penology and Crime Prevention*, 3, 160.
  7. The study was carried out from 1976 to 1980, and was funded by the Department of Health and Social Security.
  8. J. Pahl, "Patterns of Money Management within Marriage" (1980) 9 *Journal of Social Policy* 313; J Pahl, *A Bridge over Troubled Waters: a Longitudinal Study of Battered Women who Went to a Refuge*. Report presented to the Department of Health and Social Security (1981).

The police emerged as the least helpful of all the main agencies to which the women turned for help before going to the refuge; it is interesting that the position altered after leaving the refuge, as we shall see. Of the 30 women who consulted the police before going to the refuge only 37 per cent said that they felt that the response had been helpful. With such small totals it did not seem appropriate to use very sophisticated statistical techniques. However, it seemed relevant to try to distinguish those cases where the police used their discretion in ways which were seen as being helpful, from those where they were seen as being unhelpful. Except in cases of very severe injury, the helpfulness of the police reflected neither the severity of the injuries nor the frequency with which the woman had been assaulted in the past. The results suggested that the police were more likely to be seen as unhelpful when the couple were married to each other and when they were living in the same house. They were more likely to be seen as helpful when the couple were not married but were living together, or when they were married but were not living in the same house. These results are set out in the table below.

	Police seen as "helpful" %	Police seen as "not helpful" %	Total number
1. <b>Marital Status</b>			
Couple were:			
married, not married,	43	57	21
divorced or legally separated	67	33	9
2. <b>Housing characteristics</b>			
Couple were:			
living in the same house	44	56	27
living in different houses	67	33	3

It is interesting that the police records study carried out by Jeffrey showed that a considerable proportion of the battered women who appeared in these records were either not living with their assailants, or were not married to them.<sup>9</sup> Taken together the two surveys seem to confirm the hypothesis that when a couple are married and are living in the same house the police are less likely to interfere effectively if the woman is assaulted, and are less likely to record the incident. It is impossible to say how likely they are to take further action since so few of the many assaults committed against the women who went to the refuge had led to any sort of legal action at all. Only two of the women had succeeded in obtaining legal remedies before coming to the refuge, and both had been assaulted by their ex-husbands and had been living apart from them. One of these women had prosecuted her ex-husband and he had been fined; the other had obtained an injunction against him, and commented "I have no faith in the police; when I called them in they used to look at me as though I was a slut. Except when I had the injunction - they were better after that". One other woman had been urged by the police to appear for them in a charge of grievous bodily harm against her husband; but she was not willing to appear and the case was dropped.

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9. L. Jeffery and J. Pahl, "Battered Women, the Police and the Criminal Law" (unpublished paper).

The women who said that the police had been helpful were usually those who had learnt about the refuge from the police; in some cases they had been taken to the refuge in a police car. Others had been given overnight accommodation in the police station.

When the police were seen as unhelpful it was usually because they seemed reluctant to become involved and unwilling to intervene in more than the most minimal way. Many officers told women that they had been instructed not to enter the house when a "matrimonial" offence was involved. Some women were told that the police could not enter the home unless invited by the owner, or tenant, of the house, who was usually the man. Thus one described how:

"I rang them up and asked if I could have police protection to get in to get a few things. They came up and they said 'You know we're not allowed to get involved' because they asked me if I was separated, divorced, or that, and I said 'No'. So they said, 'Well, we're not allowed to get involved'. So I said, 'Does this mean I've got to go in there on my own?' And he said 'Yes'. So I said 'Well I can't go in there, it's no good.' So he said 'Well, we'll knock on the door and just ask if you can go in, but I'm afraid we can't come in with you.'

So they knocked on the door and when my husband saw the police there he said to him 'I could smash your face in'. And the policeman said to me 'Come on, hurry up, hurry up, because we're not allowed to stop.' So they gave me two minutes to get some things and they were after me all the time 'hurry up, hurry up.'"

Another said of the police:

"I always found them very nice. But there's nothing they can do except arrest or not arrest. They can't get into the house. They shouted through the letterbox 'Mr Jones, we want to see your wife.' And he shouted '..... off, this is my house.' (It was a council flat in his name). And they said 'We're not leaving till we've seen your wife.' And he literally picked me up and held me and walked to the door and said 'Here you are, you've seen her, now piss off.'"

Many women said that the police seemed reluctant to take action, even when asked to do so and when the extent of the injuries would seem to have made legal action appropriate. It might be argued that their definition of the police as "unhelpful" was based on unreal expectations about what the police are able to do; on the other hand there was little evidence of the police having explained the relevant sections of the Offences Against the Person Act to women, nor of their having ensured that women understood the procedure involved in pursuing criminal proceedings. One woman who was so savagely beaten that she had to spend eight days in hospital, described what happened when she was beaten up again a few weeks later: "That particular night he'd pulled a lump of hair out, thrown me on the floor and kicked me. And I went down to the police station and tried to press charges. But they said I wasn't grievously harmed. They said 'You should have come the time before.'" From what the women said it seemed as if the advice offered to them by the police, regarding legal proceedings, had been very unsatisfactory. For example:

"I called the police in, but they couldn't interfere with domestic troubles. They said you had to get a good hiding and bruises and that sort of thing so that I could take him to court. That's what they told me to do.

It was getting that bad that as soon as my son heard me scream he'd be straight down to the phone box on the corner to phone the police ... the last time they came he'd pulled two great chunks of my hair out. They found me standing there with a knife - because I thought - no. He'd pulled my hair out and knocked a tooth out. They told me to put away the knife and I said 'No, he'll kill me.' Then they said 'There's nothing much we can do. It's a domestic incident. We would advise you to put a bolt on your bedroom door tomorrow.' They asked whether I had been to see a solicitor, which I had. And they said 'Have you taken out an injunction?' And I said 'Well, it's just going through.' 'And an anti-molestation order?' And I said I'd applied for an emergency certificate. And they said 'Well, there's nothing we can do until it comes through.'"

Several women found that the police stressed the importance of trying to be reconciled. It is often taken for granted that "re-uniting" the couple and preserving family relationships is desirable. This may be what some couples want. When violence first occurs, a woman may hope that the relationship will continue but that the violence will be stopped; later she may be hoping for adequate protection over the months during which the relationship is ending. It is crucial that any attempt to help is set in the context, not only of the immediate incident, but also of the long-term pattern of the relationship as the woman herself defines it. In the first example below the woman felt that the peace-keeping role played by the police had been helpful; in the second and third examples the police were seen as unhelpful largely because they did not recognise that these marriages were at an end and that the women were asking for protection rather than reconciliation:

"The policeman came down and he sat between us and he listened to his side and he listened to our side, and the policeman said himself 'She seems to be giving ninety per cent and you nothing.' He said it would be up to me to summons him before they could do anything. But I didn't want to at that time because I was still with him.

I went round to the police because he gave me a black eye. They just said 'Go back and make it up.' And I said 'I've been trying for two years to make it up.' When my husband found I'd been round there I got another hiding.

The police? Oh, they wouldn't do anything because it's domestic trouble; if you're married, body and soul you belong to your husband; he can kick you, beat you, use you physically in any way he wants - there seems to be nothing anybody can do to help."

After the stay of refuge, however, the position with regard to the police changed. Twenty-one of the women had had to call on the police for help between the time of leaving the refuge and the time of the second interview. Usually this was in order to give protection during an attempt at reconciliation, or to enforce an injunction against a husband who persisted in pestering his wife. The answers at the second interview showed that the police now appeared as one of the most helpful agencies, with 77% of those who called on

them reporting that they had been helped. It seems that this reflects the changed definition of the situation by the officers called to these cases, particularly when an injunction was in force. In theory, neither the police nor the criminal law discriminate between assaults taking place in or outside the home. In June 1973, in answer to a question tabled in the House of Commons, the Home Office stated: "the law does not discriminate between assaults by a husband on his wife and other assaults. Any assault constitutes a criminal offence."<sup>10</sup> However, the evidence of this study suggests that married women who are assaulted by their husbands are less likely than other victims of assault to receive effective help from the police. Recognising this, the police should make sure that requests for help from these women are taken just as seriously as requests for help from other members of the public.

Of the 42 women, 17 had obtained injunctions against their husbands during or after their stay at the refuge, eight of these having a power of arrest attached. One other woman was still waiting for an injunction at the time of the second interview. Of the 17 women with injunctions in force, five said that the injunction had proved ineffective in protecting them against their husbands. However, the majority of the women said either that the injunction had proved an effective measure, or that its existence had been enough to prevent further violence. Injunctions seemed to serve three main functions: they indicated unequivocally to husbands that violent behaviour towards wives is not acceptable; they served to label the women as people whose complaints to the police ought to be taken seriously; and they gave an effective remedy to the police if violence recurred.<sup>11</sup>

A policeman who is called to a "domestic dispute" faces a number of different conflicts in addition to the assault itself. Firstly, there is likely to be a conflict between the man's and woman's definition of the situation and over the severity of the assault. There may also be conflict over the issue of privacy, between the woman's request for intervention and the man's demand that the privacy of the home should be respected. The results of this study suggest that assaults by a husband or wife, especially if they are living together, are often not treated seriously by the police. It is important that the police should acknowledge this phenomenon and should treat the complaint of a married woman as seriously as they treat the complaints of those who are assaulted by a stranger in the street.

Secondly, there is likely to be conflict between the various courses of action open to the police. Should they play the role of law enforcer or of peace keeper? The results of this study suggest that it is important to respect the definition of the situation put forward by the woman herself. It should not be necessary for a woman to get an injunction in order to have her complaint taken seriously. The police who were seen as most helpful were not necessarily those who adopted an extreme law enforcement role: they were those who responded most appropriately. Some women wanted the law enforced, but others simply wanted their husband calmed down; some wanted to be taken to a place of safety, while others wanted information about their legal position if they remained at home. A police officer cannot act appropriately without listening to the woman's own analysis of what should be done.

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10. H C Deb. Vol 845, Written Answers.

11 On the effectiveness of injunctions see also, J. Ansell, **A Charter of Protection: a pilot study of the working of the Domestic Violence and Matrimonial Proceedings Act**, National Women's Aid Federation (1978); and S. D. Migdal (1980) **Family Law**, 136.

Thirdly, there is a widespread disparity between the way that wife assault is perceived by the police and by the women who are assaulted. The interviews at the refuge revealed that few of the women were aware of their legal position. It seemed as if the police either had not explained the position to them or had done so in ways which minimised the possibilities for police action. The police see many "domestic disputes" and have a very narrow definition of "crime" in this field; however, battered women experience real assaults and do not see why these are not treated as are other assaults. It is not until they became better informed, either by the workers at the refuge or by a solicitor, that the women began to understand what the police can and cannot do. It is time that wife assault is taken out of the category of "domestic dispute" and treated separately.<sup>12</sup> The existence of an injunction does have the effect of re-classifying a domestic dispute, but too often the police continue to treat violence against wives as trivial until it is proved otherwise. Dealing with assaults on wives may be difficult police work, but it is nonetheless real police work.

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12. Recently there have been attempts, especially in the United States, to develop training programmes which aim to help the police to cope more effectively with this side of their work; see, for example, M Farmer and N Loving, **A Guide to Police Handling of Family Violence: Spouse Abuse and Wife Beating** (1979), Police Executive Research Forum, 1909 K St.NW, Washington DC 20006.

## 2. Family Violence and Crimes Against Women

by Staff sergeant Robert Holmes  
(Royal Canadian Mounted Police, Canada)

Increasingly in our modern society, it is important for the various agencies of government to perform their work in an interrelated and interdependent fashion.

The police having prime responsibility for the investigation of offences legislated as criminal have seen their job as clear in the sense of pursuing their investigation and apprehension of offenders. They have been largely unconcerned with the efforts of other agencies such as social services and the medical or mental health authorities who have parallel responsibilities with often the same victims of crime.

In the past, this has been particularly true in the wide-range of crimes which occur in violence against women.

Minor assaults, injury assaults, murder, rape, sexual assault, torture, confinement, incest and abuse are words used to describe the events which are common in far too many families. The offender is usually male while the victim is more often a woman or child and sometimes an elderly person or a person that is handicapped.

These opening comments are generalizations that will serve as the base upon which further comments will be constructed.

In Canada, the last several years have been a dramatic effort made to address the wide-range of crises which we refer to as family violence. May I suggest that similar events are occurring in other countries and continue today.

North America, over the past decade, has shown increasing concern for the crimes of rape, sexual assault, child abuse, battered women, and abuse of the elderly and the handicapped. Studies of victims of crime in 1982 in Canada<sup>1</sup> alerted authorities to a growing concern by the public that professionals such as the police, courts, social workers and medical authorities were failing to provide the necessary level of support for victims. That failure increased public antagonism towards the authorities and reduced public support for the criminal justice system. Public sentiment and awareness of the plight of women and children hastened our efforts and no doubt increased professional awareness of the cycle of violence which occurs in high risk families.

While the emphasis of this presentation is on violence against women and perhaps that may be construed by many people to be limited to rape and sexual assault, I wish to construct a broad view on this topic and include the possibility that the greatest danger to women comes from the family. It will be my hypothesis that family violence is a building block which nurtures the behaviour of men who become violent offenders. As a consequence to act defensively or to try prevention strategies, built into the very foundation of the planning and development is the need to redress the imbalance of power between men and women. That includes the use of power in the home, the workplace and society generally so as to truly create equality between men and women.

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1 Canadian Urban Victimization Survey, 7 Cities, Ministry of Supply and Services Canada, 1986.

Some may ask "What is the cycle of violence?" and perhaps before I attempt to explain my perception of that phenomenon, I should qualify my comments as being greatly condensed. They are not the product of scientific study but really reflect observations and discussions from years of work.

It is not unusual for police officers and social workers at the street level to see family violence, criminal and antisocial behaviour as running in the family. When I was younger, I heard it referred to as 'bad blood' meaning that the behaviour was perhaps inherited. Today, we more often think of behaviour as 'learned behaviour'. The suggestion, of course, is children who are treated violently and see violence between their parents have a greater likelihood to be violent when they become adults. They, in turn are violent with their children. In other words, the victim as a child becomes the offender as an adult and repeats the cycle with their children. Some even make the observation the adult offender again becomes the victim as an elderly person.

Others suggest that our physical and social environment contributes to violent behaviour. Conditions such as mental illness, physical damage to the brain, alcohol, drugs and stress also could be considered to be contributing factors to violence in our society.

However, let us examine each of these conditions of violence more closely starting with "child abuse". Child abuse is really a term adopted from a medical definition of acts of violence against a child. A narrow definition would confine the interpretation to acts of violence of a physical or sexual nature against a child.

The first question that comes to mind is "How pervasive are crimes of violence against children?" The answer is largely an educated guess. Recent studies in Canada, such as the Badgley Commission Report, indicate figures like 1 in 4 female children will be sexually assaulted prior to the age of 17 years and 1 in 10 male children will be sexually assaulted before they become adults.<sup>2</sup> That represents in Canada about 1.5 million children as being victims of this type of offence. Child deaths and serious injuries are poorly reported, often not investigated as a criminal event and are difficult to estimate. Crimes against children often appear as accident statistics or as medical problems which have caused the death or injury.

Canada has mandated both the social service agencies and the police to investigate crimes and protect children against abuse. It is obvious from the number of cases, we need to continue searching for ways to improve results.

Many workers in the field see destructive families in which the risk of child abuse is suspect. Within the same family they also observe wife battering. While I am not aware of any studies which establish the statistical validity of this link, I am confident that front line workers see this correlation continuously.

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<sup>2</sup> Sexual Offences Against Children, Vol.1, Canadian Government Publishing Centre, August, 1984.

Wife battering also is a term not easily fitted to the criminal justice process and which also forms part of the cycle of violence. Medical definitions not only describe physical symptoms but also include psychological abuse. Studies have documented the terrible toll upon the victims of such abuse. Women as victims suffer beatings, broken bones, bruises, injuries to internal organs, brain damage, and too often death at the hands of someone who, at one time, said they loved them. They are raped and sexually abused by their mates and left lonely, unprotected, defeated, insecure, and isolated - often lacking support by officials, friends, and family alike. Children in such families learn early that violence by one parent against the other is the way to control the partner. Women - most often the victim and men often the attacker, perhaps establish a pattern for their children to learn.

Our society has failed to understand the predicament of women living under such conditions and has little understood the issue of 'The Abuse of Power' when a male subjugates a woman. The fear, loneliness, paralysis of action, and lack of support has virtually made her a prisoner without bars. Held by her conditioning, society's lack of support, economic inequities, legal, religious and moral judgments, and by a standard of expectation about marriage and family which virtually makes it impossible for many women to break free.

Some men tend to blame women who cannot or will not walk away from an abusive male because they do not understand the inequity of power so many women experience. This becomes the basis of a failure of our society to respond to the needs of that victim. It is a process of rationalisation which argues 'Why should society respond when the woman will not help herself?' I believe this is a subtle but extremely important point because it forms the rationale for actions of a political and policy nature which have subsequently started in Canada.

While little reference is made in this paper regarding women who abuse men, that also occurs but with much less frequency than men abusing women.

Women, victims of wife battering, have a number of needs:

- they need protection against further assault;
- they need a home or shelter, food, security, and continued care for their children;
- they need to be listened to by people who understand;
- they need counselling, job training, and often help to find how to cope under new conditions;
- they need the hope that help is available to their partner so he can stop his abusive behaviour; and
- most of all, they need understanding if they decide to go back to the abusive relationship.

The needs of women and children who are victims of violence create the necessity for many changes within traditional organisations and perhaps

suggest the need to even support the creation of new organisations. The help required by victims of family violence demands that changes be constructed in a coordinated fashion which functionally can serve victims, not create additional problems.

As we examine the criminal justice system, social service, medical profession, and private sector, a plan of action emerges.

At the front end of the criminal justice and social service systems there is a clear need for the law to outline the country's position vis-a-vis violence in the family. The law should state that violence of any kind is prohibited and that law enforcement agencies will pursue those cases which are in violation of the law. In Canada, our parliament decided to expand police powers and encourage changes to police policy which effectively made it mandatory for the police to pursue a criminal investigation and prosecution if sufficient evidence was found to support a charge in a case of spousal assault.

In addition, it became necessary for crown prosecutors to increase their emphasis on getting cases of family violence before the court and it continues to be important to sensitise judges to the victim's plight. It is important to expand the options for a judge, who upon hearing the evidence, can order counselling or treatment for the offender; or who can legally provide for conditions to be applied for the release of the offender; or who can incarcerate the offender when no other remedies are possible.

But the action of government should not stop there. Let us clearly understand that the problems facing both the victim and the offender were created over many years and the solutions will not come easy. Shelters and crisis homes for victims are needed. Training, coordination, and perhaps protocols of agreement for action between the police, social workers, and the medical professionals are important aspects of a comprehensive approach to this problem. Public education is an integral part of any progress that is made. It provides the necessary support of the whole society.

Let us for the moment, look a little more closely at what this means for the police. Without searching for reasons or attempting to allocate blame it is necessary to understand that few cases of family violence out of the many that occur are reported to the police. Many cases are repeat offences with the victim not wanting to proceed with a charge against the offender. As a result, not only are cases of violence in the family not seen by the police to be the same as other crimes but the public also view family violence differently. Much of the early work in addressing this issue was simply getting wife battering and child abuse out of the closet and making the police and public aware of its serious nature.

A low rate of reporting to the police has a second consequence and that is ineffective case handling. In the past, it was common knowledge the police only actively pursued the most serious cases of family violence. In addition, family violence cases had lighter sentences than cases of violence between strangers. For some reason, all of us and that includes professionals, the government and the public saw acts of violence more tolerable within the family than when it occurred between strangers. It was alright to strike your wife or child but not permissible to strike your neighbour.

Changes to the criminal law and to police policy required the police to be sensitised to the issue. They needed a clear mandate to act as well as public and political support for pursuing family violence cases. But it also meant the police needed voluntary and professional agencies which were in tune with and available to support their actions. The police could hardly prosecute without cooperation from the other parts of the legal system. They could not aid a victim who, for many reasons, had no food, no help from friends, family, or shelter. It was difficult to be an agent of change until that change had wide political and public support.

The police role requires a police officer who understands the issues and who performs three functions:

**Firstly:** The police officer investigates and gathers the facts about the case the same as he or she would for any other criminal matter.

**Secondly:** The officer provides protection for the victim. In far too many cases the victim(s) is beaten again or even killed after the police leave. The choices are difficult and the signals obscure but it is my contention that the protection role of the police can be greatly enhanced.

**The Third Function** is for the police to ensure proper referral to support agencies, medical help, or counselling. Each jurisdiction must develop and expand its support systems to provide for this third function.

So far I have not addressed the issue of rape or sexual assault. I am sure it is not necessary to convince you how serious those crimes are, but it may be useful to discuss some of the steps we have taken.

It is a matter of record that we do not know how many crimes of rape and sexual assault occur each year in Canada. Sexual assault is one of the most unreported of all criminal offences. We can only make estimates or provide the number reported to the police. I would suspect that is also the case in almost every other country in the world. Victim studies make it abundantly clear that only a small percentage of cases are ever reported to anyone - let alone to the police.

The immediate question is 'Why?' The answer is not so easy. The suffering of victims is so varied, so pervasive and so difficult to address that I suspect we will be searching many years for improved methods to gather information as well as finding ways to help the victim.

Let's first address the point of definition. In law, rape has a very specific meaning which, in Canada prior to 1983, was defined as follows:

**Sec. 143:** A male person commits rape when he has sexual intercourse with a female person who is not his wife,

- (a) without her consent; or
- (b) with her consent if the consent:
  - (i) is extorted by threats or fear of bodily harm;

- (ii) is obtained by personating her husband; or
- (iii) is obtained by false and fraudulent representations as to the nature and quality of the act.<sup>3</sup>

That law or something very similar in wording was the basis upon which all cases of rape were tried. Nowhere did terminology such as assault or violence appear in the definition nor did it provide for an understanding of the degradation, pain, suffering, and humiliation of the victim. The definition created an impression by use of words such as sexual intercourse that the offence was akin to sexuality or something pleasurable obtained by quote "without her consent", "extorted", "personation" or "fraudulent representations", almost as if the offender was committing a crime like fraud.

As I stated earlier, the crime of rape was seldom reported to the police and after listening to the victims of rape at many conferences, it was no wonder. Women reported too often they felt victimised by the Criminal Justice System which sometimes created a worse trauma than the original assault.

It started when the woman made her complaint and then was asked questions which made her feel as though she had done something wrong. In far too many cases, a question such as "What did you do to make the man attack you?" was asked. "What kind of provocative clothing were you wearing?" "Were you alone at night or in a dangerous place?" All kinds of questions which inferred the victim was partially to blame.

During a rape investigation, a woman is asked about other sexual partners or whether she was virginal. If the woman met the offender earlier and had consumed alcohol or was a friend or neighbour she also became suspect.

In the mind of the victim there was an obvious conclusion from this line of questioning whether it was by the police, the court or even a prosecution or defence lawyer. The woman was being held accountable for her sexuality. Only if she was physically injured was the assault portion of the act considered paramount.

Canada in recognising this iniquity has since removed the offence of Rape from the criminal code and made all sexual offences as part of the assault sections of the Criminal Code.

Obviously, for both the victim and the public some sexual assaults are more frightening when weapons are used and victims are beaten, tortured, or even murdered. That is not to say that all sexual assaults are not serious. They are! But victims' studies clearly indicate women are most often sexually assaulted by someone they know. Seldom are they killed in the attack. If they are killed or physically maimed, the outcry becomes clear with the offender becoming seriously at risk from a public seeking vengeance for the crime. However, when fear and threats which do not visibly injure the victim are used by the attacker and are successful, it has proven far more difficult to generate the same level of public outcry. Silence has become a cloak of secrecy protecting the offender, clouding the number of cases and limiting the power of the police and society to act on the problem. The problem is similar to that of child abuse. We need to alert the public and develop the means to eliminate further victimisation of women.

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3      Martins Criminal Code, 1982, Canada Law Book Ltd., 1982.

I referred earlier to the victim falling prey to further victimisation by the criminal justice system and society. That was an important finding of victims studies in Canada. Female victims of sexual assault suffer greatly from the crime but even more frightening is the suffering of many women by the aftermath of the crime. The victim, when she tells her story often has to repeat it in great detail reliving the pain and humiliation. She may suffer the real or imagined scorn of her family, friends, neighbours, the police and of a trial where others do not appear to believe her. Her husband or boyfriend may leave her and friends do not know how to treat her. She is urged by family and friends alike to remain silent. This is often the result even when a stranger rapes a woman, but what about wives who are raped by their husbands or members of his family? What about children raped by their fathers, uncles, grandfathers, neighbours, or family friends? What about persons in institutions raped by staff who are supposed to be helping them? And what about the person raped by their employer? The woman who may suffer the loss of her livelihood if she tells. I could go on but the message is clear. The cards are stacked against the victim and only a change of attitude and public knowledge is going to change that.

What are the steps to a change of attitude and increasing public knowledge? No one way is the only way but surely some steps appear logical.

It is my contention that the clarity of the law is the foundation of a society's determination to deal with a problem. A second step could be the concise manner in which society outlines its instructions to the agencies responsible for the law. A third step, the support provided to the victims and included in all those efforts are the public statements, publications, and consistency of information provided to the public on the issue. All these steps require public debate, information sharing and a nucleus of concerned people to start the ball rolling.

I first mention the law because it is my contention that a strategy for change in society is only as good as its foundation. Crimes of violence against women are predominantly generated by the struggle for dominance most often by men over women. Equality is wonderful in theory but difficult, in fact, to operationalise. An important step is to make all forms of violence illegal including acts of violence between spouses, parents, and children, as well as the usual acts of violence between strangers. Include all forms of sexual crimes within the coded definitions pertaining to assault. Expand the sentencing options to include treatment and counselling as well as incarceration. If treatment does not work or the crime is too severe society must still have the capacity to confine the offender. These steps are already taking place in Canada.

Training of the personnel who work in the fields of criminal law, the social services and in medicine is extremely important. Finally, public education is like fire to gasoline, it will drive the engine and make it work.

Before concluding, it may be valuable to discuss possible changes to areas of social services and to the medical profession which would be of assistance to women victims.

Battered women come from both wealthy families and the poor. Ethnic and religious origins are no guarantee of freedom from violence. Family violence is insidious, pervasive, and largely hidden. It is therefore, important that the support provided by governments through their social services and medical

safety nets should not include conditions which screen out women victims for economic reasons.

Strange as it may seem, it is often the case that well-to-do victims are doubly jeopardized. If they complain, their financial support is withdrawn and they and their children become totally dependent. Some hospitals have been known to turn away a woman victim of rape. Conditions for entry to a women's shelter have had a means test and some shelters are time limited.

The staff and service providers too often are discourteous or unsympathetic because of personal biases. Woman who are raped sometimes are blamed for their own downfall. Battered women may receive little sympathy if she wants to return home.

A victim's behaviour does not necessarily correspond with society's perception of how they should behave. Some victims may laugh, act nonchalant, or otherwise appear different. Knowledgeable people understand these are normal defense mechanisms for persons suffering trauma but poorly trained service providers too often expect the victim to not only suffer but want them to appear to be suffering.

There is an increased risk that victims of violence could become suicidal and destructive. They deserve sufficient concern and they should be able to expect to be protected during their period of personal crisis.

Women victims of violence may begin to drink too much, take drugs, or withdraw from friends and neighbours. They need well trained volunteers and professionals to seek them out and to provide support. That role can often fall to social and medical service professionals but I believe society's volunteers are best capable of filling the void.

Victims of violence have been the subject of many studies in Canada over the last decade. While we still have much to learn and many things to do, improvements have been made. Perhaps the clearest message for all is that established agencies and the volunteer services must work together. Nothing is more frustrating to victims than the very agencies mandated to help, in fact, having conflicting policies which create more problems than they solve.

I have included in my presentation references to a handbook produced by the Ministry of the Solicitor General of Canada called "Highlights - Canadian Federal/Provincial Task Force on Justice for Victims of Crime". This handbook lists 79 recommendations on improving services to victims, outlines 17 recommendations to improve services to battered women and makes 7 specific recommendations for the crime of sexual assault. An important recommendation is the development of a national sexual assault kit which provides for the following:

- (1) A patient's guide, containing information for the victim of a sexual assault.
- (2) A physician's guide.
- (3) Patient's consent form.
- (4) A sexual assault history form.

(5) A medical history.

(6) A forensic evidence record.

The essential point to be made is that the kit is the compilation of input from all the professionals in the area of sexual assault. It provides for the necessary legal requirements but also provides the doctor and hospital staff information about what is required of them. It provides for specific information to be passed to the victim to reduce the trauma of the investigation and informs the victim about the medical procedures. This is an excellent example of new procedures developed in cooperation between the support agencies.

Separate from but also an important ingredient of a comprehensive handling procedure are protocols and strategies for an investigation that involves a child. The case may be incest, rape, or child sexual abuse. An investigation which starts as a rape may finish as a more complex and insidious problem. Only training, knowledge, and compassion of all the professionals can provide for the best treatment possible.

I have tried to include many days of discussion into a short talk on Family Violence and Crimes against Women. As a result, I no doubt have left out much and failed to adequately describe many points I should have made.

Let me conclude with a final statement. No woman deserves to be beaten, sexually assaulted or made to feel afraid. No society can afford to leave so many of their people at risk.

The task is great and change is difficult but our efforts will mean much to so many women at risk and hopefully will be a building block toward a time when violence against women will be unacceptable in our society.

**APPENDIX 2**  
**EXAMPLES OF TRAINING MODULES**

1. POLICE TRAINING: JUSTICE INSTITUTE OF BRITISH COLUMBIA, CANADA

POLICY ACADEMY

A CASE EXAMPLE

The objective of the Police Academy is to develop and provide police training programs and ancillary staff development services to meet the needs of British Columbia's municipal police community, in accordance with the standards and rules established by the provincial Police Commission and the Police Act.

This community consists of 1,850 sworn peace officers plus a growing number of civilian support staff whose paraprofessional duties call for special training programmes not available through any other institute or agency.

Currently the Academy staff consists of the Director, Deputy Director and Programme Developer, all fulltime employees of the Justice Institute and ten seconded police officers on initial two year contracts with a third year option. There are four clerical support staff.

In spite of the Director's master/servant relationship with the Institute's Board, he is directly responsible to the Police Commission with respect to standards of training (B. C. Training Regulations appended to the Police Act) and to the Police Services Branch of the Ministry of Attorney General for the instructional budget and administrative matters. Consequently, he is a member ex-officio of the Police Commission's Executive Committee and is also under the direction of the Assistant Deputy Minister, Police Services.

Currently, training at the Police Academy is post employment. Consequently, the Training Regulations mentioned direct the Municipal Police Boards that the municipal constables in their employ must attain the status of "Qualified Municipal Constable" prior to the first anniversary of their appointment and "Certified Municipal Constable" prior to the fourth such anniversary. The former status is attained by successfully completing the 32 week "Peace Officers' Basic Training Programme" and the latter by completion of the "Peace Officers' General Training Programme", which consists of two four-week periods of training in the second and third year of the constables' service. The certification of these levels is Provincial and has created greater mobility possibilities for municipal police personnel. However, if police service is interrupted, the certification will eventually expire.

For persons with police experience with the Provincial Force (RCMP) or outside the Province, exemption and challenge procedures are designed to prevent superfluous training. Availability to these procedures are within the purview of a "Committee of Variance" consisting of representatives of the Police Commission, the Police Academy, the B C Federation of Peace Officers and the Training Officers' Advisory Committee. The latter Committee is made up of the Training Officer of each police force (including RCMP "E" Division) and Academy personnel.

The Police Academy also offers an extensive advanced training programme (the calendar lists 43 different courses) and is responsible for the continuous refresher and specialist training of the B C police community with respect to new techniques, legislation and judicial precedents affecting police procedures. The latter mandate is often met by joint efforts of the Academy

and the RCMP training division, as is the training of auxiliary police in the Province.

In addition, the Academy assists the Municipal Police forces with their professional development programmes and in the selection of personnel. This includes the assessment of prospective and serving staff for the purpose of recruitment and promotion respectively. The "Research, Development and Assessment Section" of the Academy, which provides these services, also administers a Provincial certificate programme for educational programmes completed by police personnel in the Universities and Community Colleges. Counselling is available for these personnel to select the combination of courses most suited for the individual, considering his or her goals and the needs of the police service.

Police departments have also come to rely on the Academy for a range of ancillary staff development functions including performance appraisal systems, promotion examinations, research and consultation services. The Academy is responsible for coordinating the allocation of Canadian Police College course positions.

#### STUDENT TRAINING DAY STATISTICS

1983/84:	12,014
1984/85:	14,401
1985/86:	16,684
1986/87:	9,619
1987/88:	16,272
To June 1988:	4,037

#### RECRUIT TRAINING PROGRAMME

The structure and basic content of recruit training was developed in 1975 when training was centralized for the 12 municipal police departments in BC at the Police College later to become known as the Police Academy. Eligibility for enrollment at the Police Academy comes through employment with one of these municipal police departments.

The curriculum was designed to ensure a balanced mix of police skill training, academic education, and practical field experience.

The first block of training, 14 weeks, takes place at the Academy. The first-level course places heavy emphasis on police skills, with an introduction to social sciences as they relate to police work. The intent of the first block is to develop a relevant base for the primary period of field exposure which follows

Wherever possible, the classroom lecture format is down-played in favour of action-oriented participation that includes seminars and carefully constructed simulation models that approximate modern policing activity.

At the point of entrance to the Academy, a personal training record is begun and continually upgraded throughout the constable's career. This is a record

of the recruit's training accomplishments and helps determine the investment in and the direction that future training should take.

In the second block of training, the recruit constable is employed in the field for eight weeks. During this field training-period, the recruit works under the guidance and continuous assistance of a seasoned, specially trained, first-class constable. This person is responsible for seeing that the recruit receives a wide exposure to general police work. The recruit has the opportunity to apply the knowledge gained in Block I within an operational police setting.

In Block III the constable returns to the Academy bringing experience from the "street scene," which in turn will keep the teaching process current and continuous. Block III lasts ten weeks. Recruits are upgraded in general police skills, with a concentration on the social dimensions of police work.

Upon successful completion of Block III the recruit graduates as a 'Qualified Municipal Constable' as designated by regulation to the Police Act.

Recruit constables return to the field for a period of one year, where they perform all general patrol duties under minimal supervision. In Block IV the recruit returns to the Academy for three and a half weeks to further training in police skills. Upon successful completion of Block IV the recruit is eligible for promotion to second-class standing.

The recruit returns to the field for a further one year of practical police experience and evaluation. In Block V the recruit returns once more to the Academy for three and a half weeks of advanced level police skill training.

Once Block V is successfully completed the constable is eligible for advancement to First Class Constable and is designated a 'Certified Municipal Constable' under the Police Act.

Throughout this three-year training process the recruit is required to meet and maintain the standards established by the Academy in the following principal areas of instruction:

**Investigation and Patrol** - the basic resources, procedures and skills required to perform every day patrol and investigative duties;

**Legal Studies** - an introduction to law and its philosophy; the Criminal Code and its interpretation; rules of evidence; powers of arrest and search; court process and evidence presentation;

**Traffic Studies** - an understanding of traffic law, accident investigation and enforcement techniques and the safe operation of police vehicles under normal and emergency conditions;

**Human Relations** - the development of skills in interpersonal communication and conflict management in order to deal effectively with crisis situations;

**Firearms Training** - a training in the knowledge, skills and safe handling of firearms;

**Physical Education** - to instruct job-related skills and develop physical conditioning and a continuing commitment to fitness;

**Emergency Care** - first-aid skills are learned and practised in simulated situations which stress quick and effective action.

An applicant with previous police experience who applies to a department may obtain exemption from some aspects of the training process.

Below is a breakdown of the hours devoted to these topics and a chart illustrating the five block training progression, as well as an organizational chart of the Academy.

POLICE ACADEMY

RECRUIT TRAINING

TOPIC/HOVE

COURSE CONTENT	BLK. I 14 WEEKS	BLK. II 8 WEEKS	BLK. III 10 WEEKS	BLK. IV 3 1/2 WKS	BLK. V 3 1/2 WKS
	Hours		Hours	Hours	Hours
Legal Studies	70	Field Training	30	35	18
Investigation and Patrol	70	or	30	16	32
Human Relations	44	Practicum at	60	10	10
Traffic	50	Department	40	6	3
First Aid	12		21		15
Driver Training	30		24	6	6
Firearms	30		24	6	6
Self-defence	25		10	5	3
Foot Drill	25		20		
Physical Training	40		30	15	15

## 2. SEXUAL OFFENCES INVESTIGATIVE TECHNIQUES COURSE

### (METROPOLITAN POLICE DETECTIVE TRAINING SCHOOL)

This course is offered to police women and investigative officers, the only criterion for the training being that the students have two years' service. As such, the officers are mixed in experience and seniority. Apart from this course, every police recruit receives a full day's training in investigating sexual assault. The Course is a week long, is intensive and places severe pressure on the officers.

Morning one is devoted to a discussion of research and the policy of the Metropolitan police. The 'rape trauma syndrome' is explained and the various myths surrounding rape explored. Stress is placed on the role of the officer as an individual, so that the police are made aware of the second phase trauma that the complainant is undergoing, this being brought about by the fact that the investigation will require the officers to demand the complainant to do the opposite of her inclinations. It is emphasised that initial impressions can frequently be inaccurate as complainants often present a confused picture.

The first day concludes with a visit to the Victim Support Service, which plays a vital role in the management of sexual assault through its advice and counselling function.

Day two is less theoretical in approach and aims to show what the forensic scientist can do to help achieve a conviction. This information is vital for even very junior officers as the police officer may be in the position of having to guide the doctor. The training that is given during this course is of a fairly high level. Officers are told that careful thought should be given to the particular police surgeon who will be called in to examine the complainant. More women police surgeons have been recruited recently, but a female surgeon will by no means always be available. Moreover, the fact that the doctor is a woman does not automatically guarantee her sensitivity or appropriateness to the particular case. Officers are warned to be sensitive to cultural issues and to remember that for a successful prosecution they need the full co-operation of the complainant.

Officers are then given the first of two practical sessions concerning the packaging of exhibits. These practicals are divorced from each other so that the officers will better recall the information. Stress is placed on the critical importance of labelling and sealing the exhibits.

Discussion then centres on the law and evidentiary requirements in sexual offences with particular stress on admissibility and corroboration. Again, the information covered is very detailed for junior officers. This is because female officers, who are often very junior, are being relied on to take the statements of complainants and for successful and comprehensive statements, they must be aware of the rules of evidence. This is particularly so where the likely defence is consent. Here officers are advised that where the defence is likely to be consent the trauma for the victim will be great. Officers are also advised that evidence of early complaint should be used more often, particularly in those cases where the defence is consent.

Day three concentrates on interview techniques: preparation for interview, body language, listening. The use of examination suites is encouraged.

Practical exercises with role play techniques and the use of video to allow for feedback and self-assessment are utilised. The role play points out clearly for the officer the sort of embarrassment the complainant will suffer when she gives her statement.

Day four starts with the second forensic class and then assesses the role played interviews. Finally, time is devoted to statement taking. The theoretical discussion emphasises the importance of the statement and the importance of accuracy and completeness at the outset which will limit the amount of times that the complainant needs to be interviewed. The officers are told that the statement will take time and it may be better to take it in the complainant's own home.

The day concludes with a practical exercise in statement taking, the aim being for the officer, irrespective of his or her level of experience, to produce a well-structured, full and complete statement.

Day five is devoted to feedback on the practical exercise of statement taking. Cases are then studied to illustrate methods of identification, such as identikit, recognition of injuries and techniques to determine whether they are self-inflicted and photographs. Finally, a period is spent considering offender profiling - a picture of the offender from the complainant which is taken from the statement and which is used in identification.

MANDATORY CORE TOPICS  
FAMILY VIOLENCE

(SUGGESTED TIME 1 - 1/2 DAY)

1. Members investigate/intervene in incidents of family violence.
2. Family violence is a contemporary term which encompasses all aspects of violence within the family such as child abuse, wife battering, and abuse of the elderly. The purpose of this session is to make members more cognisant of this growing social problem and enhance their intervention and investigative skills when dealing with incidents of this nature.

Intervening in family violence situations is not new, however, the police role has been normally that of mediators or pacifiers rather than intervenors. The role of the police over the years has been confined due to the family being viewed as sacred and that it must remain intact at all cost.

As professionals, we the police officer must change our role and attitudes towards family violence. We must act within the confines of the law, without prejudice, and be aware that we have to protect life and prevent injuries to people. Members must be made aware that they have an obligation to society and to the victim's well-being. The intervention must be thorough and in a manner that produces the least amount of further psychological damage to the victim.

While investigating unrelated complaints members may become aware of a member of a family who has been abused either physically or psychologically. Adults and children often exhibit signs and symptoms that are a direct result of an abusive situation and most commonly appear as abnormal behaviour. It is imperative that members remain professional and unbiased during all incidents of family violence to ensure an investigation is not jeopardised.

This session should be given by a police investigator supplemented by a local professional resource person experienced in family violence and child abuse situations. It is imperative that these resources be totally familiar with the role of various community agencies and how they can assist during an investigation.

This session should be presented in conjunction with the Victims/Witnesses of Crime sessions as these sessions are closely related. On occasion, evidence is lost as a result of the investigator not handling the victim/witness correctly in the first instance.

3. Lecture, developmental discussion, and case history will cover:

- Victims of family violence
  - child
  - spouse
  - elderly
- Child abuse
  - definition of child abuse
- Categories
  - neglected child
  - abused child
  - battered child
  - sexually assaulted
- Types of injuries
  - causes
- Symptoms of abuse
  - extreme change in behaviour
  - loss of appetite
  - recurrent nightmares
  - fear of dark
  - regression to more infantile behaviour (ie bed wetting, sucking thumb, excessive crying)
  - torn or stained underclothing
  - vaginal or rectal bleeding, pain, itching, swollen genitals and vaginal discharge
  - vaginal infection or venereal disease
  - unusual interest or knowledge of sexual matters
  - expressions imaginative for child of that age
  - fear or intense dislike of person
  - other behavioural signals such as aggressive or disruptive behaviour in school

Note: Behaviour is complex, however, rapid changes and significant difference from what is generally accepted as normal is cause of suspicion).

- Ramifications of child abuse on society
  - runaways
  - juvenile delinquency
  - vandalism

- gang membership
- alcohol/drug problems
- suicide
- continuum from common assault to murder
  
- perpetrator
  - parents
  - guardians (including babysitters)
  - relatives
  - family friends
  - strangers
  
- factors contributing to perpetrator's behaviour
  - attitudes
  - actions
  - excuses
  - unemotional or passive
  - disregard for child's health
  - sense of righteousness in use of force to control behaviour
  
- spousal assault
  - either male or female
  - types of assaults
  - cycle of family violence (Honeymoon syndrome)
  - potential for murder by perpetrator or victim
  
- Abuse of elderly
  - link to other forms of family violence
  - types
  - deprivation of food, medicine, etc.
  - attempt at a type of murder
  - manipulation of funds
  
  - source of complaints
  - victims deemed to be senile
  
- Role of police in family violence
  - protect victim from further assault/abuse
  - prevent further psychological damage
  - sensitive to victim's needs
  
- primary role
  - Investigational
  - policy
  - definition of child (criminal code and provincial legislation)
  - gather all evidence
  - attitude (understanding)

- on the scene
  - attend promptly
  - authority to enter dwelling
  - photos
  - authority to arrest when necessary
  - seizure of weapons and/or other physical evidence
  - medical attention for victims
  - names of all family members
- at the hospital
  - gather complete medical evidence
  - understanding of medical confidentiality
  - possible use of subpoena or search warrant
- interviewing
  - child victim (greater likelihood of telling truth on first encounter), danger of psychological injury from repeated interviews
  - possible use of video taping
  - adult victim
  - accused
  - witnesses
  - determine accuracy of witnesses' statement in relation to physical evidence
- modification of behaviour
  - prosecution - laws relating to child abuse and other family violence. (Criminal Code and Social Services Act)
  - courts
  - alternative sentencing
  - protection of safe home
- referral of victims
  - legal, medical, etc.
  - notify appropriate agency
  - refer victim and/or family members of support agency assistance
- aids to investigations
  - sexual assault kits
  - information booklets
  - anatomical correct family dolls
- secondary role (prevention of abuse)
  - community awareness
  - by media
  - workshops and seminars by community at large
  - establishment of a safe home through social services or community associations
  - understanding of abusers' treatment program

- Problems associated with family violence investigations
  - offence committed in the house
  - spouses protect each other
  - inability of victim to come forward
  - victim's fear
  - don't want to get involved
  - difficulty of determining accident from abuse
  
- 4. AT THE END OF THIS SESSION, EACH MEMBER WILL BE ABLE TO:
  - (A) GIVEN EXAMPLES OF CASES DEPICTING CHILD ABUSE (AV/TV), IDENTIFY EACH TYPE OF ABUSE AND ITS PROBABLE CAUSE.
  - (B) IDENTIFY TWO PROBABLE UNDERLYING REASONS FOR THE BATTERING PARENT INFLECTING THE INJURY.
  - (C) IN A ROLE-PLAYING INTERVIEW, ON A ONE-TO-ONE BASIS I THE CLASSROOM, INTERVIEW THE CHILD VICTIM (STUDENT) TO DETERMINE HOW THE INJURIES OCCURRED AND WHO IS RESPONSIBLE WHILE EMPLOYING ALL THE TECHNIQUES LEARNED IN THIS SESSION.
  - (D) GIVEN AN OFFENCE AND BACKGROUND INFORMATION ON A CHILD ABUSE INCIDENT, OUTLINE ALL THE EVIDENCE REQUIRED TO SUPPORT A SUCCESSFUL COURT PROSECUTION INCLUDING THE FOLLOWING:
    - PHYSICAL EVIDENCE TO BE COLLECTED AND RECORDED (AT THE SCENE, FROM THE VICTIM)
    - MEDICAL EVIDENCE
    - OUTSIDE AGENCIES, AND
    - WITNESSES
  - (E) NAME AND DESCRIBE THE ROLES OF AT LEAST FOUR COMMUNITY AGENCIES THAT CAN PROVIDE ASSISTANCE DURING A CHILD ABUSE INVESTIGATION.
  - (F) GIVEN A HYPOTHETICAL ABUSE SITUATION, STATE WHETHER INDIVIDUAL INVOLVED IS A CHILD AS DEFINED BY LEGISLATION. IF INDIVIDUAL IS A CHILD, STATE AUTHORITY AND PROCEDURE INVOLVED IN REMOVING THE CHILD FROM THE SCENE.
  - (G) DESCRIBE THE ROLE OF POLICE IN AREAS OF FAMILY VIOLENCE.
  - (H) EXPLAIN THE CYCLE OF FAMILY VIOLENCE.
  - (I) STATE FIVE PROBLEMS ASSOCIATED WITH FAMILY VIOLENCE INVESTIGATIONS.
  - (J) GIVEN A SITUATION INVOLVING A DOMESTIC DISPUTE:
    - SUMMARISE THE FACTORS THAT PRODUCE THE CONFLICT,
    - ESTABLISH HIS/HER LEGAL AUTHORITY TO ENTER DWELLING,
    - DIFFUSE THE IMMEDIATE THREAT OF VIOLENCE,
    - EXPLAIN WHAT REFERRAL AND FOLLOW-UP ACTION SHOULD BE TAKEN.

5. References:

Police Law Quarterly - July/78 Article by Catherin M. Ryan - Investigating Child Abuse & Neglect Cases. Article - R.C.M.P. Gazette (Vol. 40, Article 9) Article - Marjorie Sharp, "Working paper for a national conference on Child Abuse", Chateau Laurier, Ottawa, 79-12-14. Sponsored by the: Canadian Human Rights Foundation, Suite 340, 1980 ouest, rue Sherbrooke, Montreal, Que. H3H 1E8. The Battered Child in Canada, (McClelland & Stewart, Toronto, 1979) Author - Van Stolk, Mary. R.C.M.P. Gazette (Vol. 43, No. 6, 1981) - "Child Abuse; Why and What to Look For".

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"Child Abuse and Canadian Law", Van Stolk, Mary, Crime and Directory of child Abuse Prevention Programs in Canada; Health and Welfare Canada, 1984.

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6. Related Sessions:

Chapter 2.B. (Human Behaviour)

Chapter 2.C. (Interviewing Techniques)

Chapter 3.L. (Victims/Witnesses of Crime)

### 3. INTERVIEWING THE SEXUAL ABUSE CHILD COMPLAINANT IN THE CANADIAN CONTEXT

By: Wendy Harvey with collaborative ideas from Cpl. Hunter McDonald, Nancy Frederick, John Yuille Phd, Vanessa Farr and Ingrid Pipke

#### I. INTRODUCTION: NEW ATTENTION TO THE INTERVIEW

Interviewing a child complainant as part of a child sexual assault investigation has always been a complex matter, the importance of which has earned recent attention. Historically, where the matter was dealt with as if a simple task, the faults went unnoticed or the case never made it into the justice system. A combination of paralleling developments currently demand that a child's interview be conducted with skill and sophistication.

Although a number of factors encourage a demand for fine tuned skills in the repertoire of the child interviewer, two widesweeping initiatives have and will continue to bring child interviewing into a new era. These are the government policies for interdisciplinary cooperative interviewing and Bill C-15.

#### 1. PROVINCIAL POLICIES

Although interdisciplinary investigative teams and committees are not a new concept in other parts of the world, it has only been in the last five years that provincial policies and protocols have formalized the notion in this country. Such committees are designed to encourage cooperation, information sharing and skill development amongst the police and social service agencies compatible with the needs of the complainants and the mandates of the respective professionals.

The cooperative existence of such a team brings people together with different mandates and raison d'etre to work and sometimes "battle out" the progressive steps of a case. Not always do the teams function smoothly, (which may be mistaken as a "this policy isn't working" syndrome), but it is clear that even disagreement, is better than no communication.

The dynamics of a joint interview conducted by a police officer and social worker and later scrutinised by a crown attorney bring to bear interesting phenomena for the individual practitioner.

1. Neither police nor social workers are accustomed to having another interviewer present during an interview. This is particularly so when the partner is from a different occupation.
2. Neither police nor social workers are accustomed to being (creatively) criticized (by word or gesture) on their interview techniques or content particularly at the heat of the moment.

3. Some police or social workers who may already hold stereotypic views or feel an alienation from the other occupation are being positioned to necessarily work with one and other cooperatively.
4. Both police and social workers normally have a position of control in the single interviewer interview.
5. Both police and social workers are trained and practice according to the notion that their mandate needs are a priority.
6. Neither police nor social workers are accustomed to having immediate information on the needs of the other.
7. Social workers are not accustomed to having their interview techniques microscopically examined in an adversarial context like the criminal justice system.
8. Police are not accustomed to having their "bed side manner" microscopically examined by child advocates.
9. Police are more accustomed to criticizing social workers for leading questions than being criticized for the same.

Two professional groups are brought together to do a job. Each is not always convinced of a common purpose. Because of the uniqueness of this relationship, and this exercise, strains will exist. Equally significant is the unfolding of a valuable and unique training ground. On going training takes place as each interviewer/investigator becomes more aware not only of the needs of their respective investigations but those of the other's as well. Since the ultimate goal will be the protection of the child whether that be in the protection or the criminal justice system hopefully a truce can be accomplished and the in-field training reach fertile receptive ground.

## 2. BILL C-15

Bill C-15 is specifically designed to enhance young children complainants (of sexual offences) access to the criminal courts with a view to protect them in and through the criminal justice system. The Bill is all encompassing in its reform and practitioners speculate that with its proclamation in January of 1988, more and younger children will have their day in court.

From an investigative point of view, complaints from all ages of communicating children could feasibly result in criminal charges. Consequently, all investigations should effectively be conducted as if they shall so result.

This is significant because the younger children are still the ones less likely to freely narrate a complaint. The interviewers must be wise to the current research on suggestibility before squeezing a complaint out of a young child.

Another innovation of Bill C-15 is the admissibility of the child complainant's videotaped disclosure, under certain conditions, in the criminal trial, as proof of its contents. While many videotaped projects were started across Canada before Bill C-15, that the product was inadmissible in criminal court for the truth of its contents was an often expressed/heard rationalisation for not videotaping at all. Bill C-15 will encourage the practice of videotaping children who complain of sexual abuse.

Consequently, the techniques of child interviewers, whether they be police or social workers will be exposed to an unprecedented viewing, and criticism. Interviewers' techniques have always been subject to criticism in the justice system but never have the interviews been recorded in such a manner to invite and be available for inspection, re-inspection, analysis and re-analysis.

This paper will look at interview goals and techniques consistent with the demands of our times.

## **II. THE INTERVIEW: POLICE AND PROTECTION MANDATES**

There are two significant differences in the social worker's and police officer's roles that frustrate attempts towards a mutually satisfying interview format.

### **1. EVIDENCE COLLECTION VERSUS RISK ASSESSMENT**

The police officer's mandate is enforcement of the law. Consequently the investigative process is one of evidence (ie information that is admissible in a criminal court of law) gathering. Investigation is a means to an end. The end is the criminal justice trial. Not all investigations end in charges but all are conducted as if they may potentially so end.

The social worker's foremost mandate is child protection. Consequently the investigative process is one of information gathering upon which an assessment of risk can be based. It is not an issue to a social worker whether the information is independently "admissible" in the usual sense in court because he has a direct line of communication into family court by virtue of his status.

These differences are encouraged by the structures of the court system under whose rules these practitioners work.

### **2. CRIMINAL PROSECUTION VERSUS THE PROTECTION HEARING**

The manner in which a police officer conducts an interview is influenced by the route the information elicited follows through the criminal trial process.

#### **(a) The Interview and the Criminal Justice System**

When the police identify a person who may potentially be a witness, the latter is interviewed. During the interview the police will most likely write out the witness' version of a set of facts called a "statement." Actors throughout the process will rely on this statement as representing that witness' version of the set of facts. If there is a variance, the witness will be accountable by way of credibility assessment.

Rarely in the course of a criminal trial does the interview process become an issue for examination. Two main exceptions to this are, identification line-up cases, where a suggestion may be made to the witness on the identity of the suspect, and children witnesses.

The statement on the other hand receives repeated attention throughout the criminal process. After the police have received the statement from a witness/complainant for example, the investigator himself will use it further in the investigation around interviewing the offender, and other witnesses. Other officers may refer to it also. From here the statement becomes part of the crown counsel file where it will be read in the determination by crown of what charges, if any, should be laid. Later crown counsel may read the statement in court as part of a bail hearing, use it to prepare the complainant for court, provide it to defence as part of disclosure, and generally prepare the trial as if the statement is what the anticipated evidence will be. Later in trial, the witness may refer to the statement to refresh his memory, and may be cross examined on any inconsistencies or omissions between his evidence and the statement. At sentencing, some crown may read or submit the statement to communicate the facts upon which a sentencing must occur.

When an investigator follows his statement through this course, he will become conscious of a certain standard required so that the process best elicits a reflection of the witnesses' true level of credibility. Otherwise, if such a standard is not maintained, that which is actually attributable to the statement taker's weakness, will be attributed, at trial, to the witness' lack of credibility. There are numerous examples of this, but to demonstrate the point, a simple few are these:

The investigator forgets to write down a witness' comment 'A' and later tells the court he was not told this comment 'A' because he forgets having been told 'A'. The inference will remain that the witness has recently fabricated the comment 'A' to embellish the complaint, otherwise it would have been told earlier to the officer.

The investigator paraphrases the statement using words with which the witness is not familiar. Later at trial the difference in language will be construed as inconsistencies.

A police officer knows that if he elicits a child's statement through leading questions, the interview method will have an impact on the interpretation of the child's credibility later in court.

#### **(b) The Interview and Child Protection**

On the other hand, the manner in which a social worker conducts an interview is influenced by the subsequent information used in the family/protection court process.

Social workers do not normally take a "statement" from children at risk because there is no need to do so in their system. The social worker can merely rely upon his notes to write up a report on risk assessment and later testify in court. Most protection proceedings end in consent orders and very rarely do children have to testify.

If the children do testify, the recurrent theme throughout the process is the protection of the child and the assessment of risk for this child, which may have little to do with the actual validity of the child's account of any abuse. As long as the child is communicating a state consistent with protection needs the details of the actual abusive situation take second place.

Because the social worker is assessing risk, there is a sense of urgency in the interviewing, not present for the police investigator who is "collecting evidence." The social worker at the end of the interview must decide where that child goes: back home, or into care. This sense of urgency may encourage an "ends justifies the means" approach to interviewing the child, ie, "I have to ask leading questions to save the child from further harm tonight."

Unlike the police officer, the social worker will maintain a contact with the child's parent throughout the process, again to accomplish a protection plan for the child.

### 3. THE GOAL OF THE JOINT INTERVIEW

The joint interview ideally, will be used throughout both systems. If it is to reach its maximum effective use, the interviewer must respect the needs of both systems. No doubt the criminal justice system presents a tougher standard often considered incompatible with the needs of abused children.

Certain underlying concepts and notions will assist the interviewer shift context.

Firstly, rather than placing emphasis on the occupations, the person conducting the interview should be "the child interviewer" with a mandate of its own. In reality, it doesn't matter who (doctor, lawyer, psychologist, social worker, police officer) conducts the interview, as long as it is done and documented properly.

Secondly, a part of proper interviewing is underlying attitude and principles. Using the metaphor, the interviewer's attitude is the river bed and the daily interviews the river's water, the river bed dictates the course of the water. If the interviewer develops a "river bed" consistent with certain principles, no matter which cases and scenario present themselves, the "water" runs the correct course.

The attitude and principles necessary for the new child interviewer are these:

1. An omnipresent and constant balance of rights of the accused and protection of the child.
2. The interviewer's ultimate goal throughout is to conduct himself in a way that simultaneously and to the greatest extent possible:
  - minimizes the trauma to the child
  - elicits valid information from the child
  - maintains the integrity of the process

Concentrating on one alone may well jeopardize the others.

#### 4. RECOMMENDED TECHNIQUES

More general guidelines around interviewing are:

1. Maintain a child focused interview:
  - consider the child's level of development particularly around such issues as time orientation, language, setting, support people, skilled worker
2. Remain supportively objective:
  - avoid preconceived agendas
3. Avoid suggestive questions and gestures:
  - have the child narrate whenever possible and throughout
  - elicit the child's information rather than confirming the interviewer's information or belief
4. Avoid manipulation:
  - bribing, promises, coercion, (positive or negative)
5. Seek information that confirms the child's complaint from the child (and eventually others):
  - for example: details that can be confirmed externally
6. Be aware of the criminal justice/protection mandates
7. Develop and follow a structure to the interview:
  - (a) A Sample Structure:

The stages of the interview naturally flow into these:

- preplanning
- introduction
- rapport building
- background
- identifying body parts
- the interview core
- closing the interview

EXTENSIVE NOTE TAKING IS VERY IMPORTANT THROUGHOUT THE STAGES. IDEALLY THE INTERVIEW WILL BE VIDEOTAPED WITH A BACK UP NOTE TAKING SYSTEM.

#### THE PREPLANNING STAGE

- includes community checks (school, hospital, police, doctor) history of family, computer checks
- develop relative roles with co-interviewer
- fundamental skills
- secure neutral place
- interview tools (crayons, tape recorder, video etc)
- provide organization and support

- avoid preconceived notions and expectations
- the extent of urgency will influence the extent of preplanning
- if non-urgent the interview may meet with the child initially and commence the rapport building process and set an appointment time for a later interview
- notes are important at this stage too.

#### INTRODUCTION

- who is who
- purpose
- time/date/place
- where is caregiver/friend
- eg, "My name is Anne, and I'm a social worker. This is Susan and she's a police officer and it's our job to talk with kids about how things are with them."

#### RAPPORT BUILDING

- general conversation
- designed to learn about the child too
- eg, elicit neutral memory information (birthdays, etc)

#### INTERVIEW CONTEXT

- permission to say don't know, don't remember, don't understand
- discover child's concept of "truth"
- "we are here to find out what really happened"

#### BACKGROUND

- general background information regarding family, friends, school, likes and dislikes, etc.

#### IDENTIFYING BODYPARTS

- maintains neutrality
- explain why you want the child to do so
- use drawing
- (not anatomically correct)
- name all parts without focussing on genitals or part where abuse occurred
- also purposes and experience

#### THE INTERVIEW CORE

- always promote free narrative
- the nature of the abuse and the identification of the alleged abuser ideally should come from the child first
- for example, "Let's make a list of all your babysitters" and "You say he hurt you, tell me about that."

- tools during interview from most to least useful: drawings, doll house, telephone (with recorder on the end for whispers), photos, puppets, anatomically correct dolls
- stages of core:
  - free narrative ("Tell me about that")
  - expanding narrative (open ended questions: who, when, where, what)
  - clarification phase (specific non-leading questions from the previous informations the interviewer possesses)
  - establishing "need of protection" phase (avoid if at all possible
    - final resort to leading questions - go back to free narrative when the leading question elicits some information)

#### **CLOSING THE INTERVIEW**

- purpose to reassure the child
- "thank you for talking to us"
- avoid praise about actual disclosure contents
- leave it open for future meetings and talks
- help child into the next step, eg telling mother
- avoid saying, "I believe you" but show the child your support in other ways

ATTORNEY GENERAL'S SPOUSAL ASSAULT POLICY

1. The following recommendations have been approved and constitute the Ministry of the Attorney General's revised spousal assault policy (April 1986).
2. Police Policy
  - a. That the Attorney General's guidelines for RCMP and municipal police forces in British Columbia with respect to charging and arrest in spousal assault cases reads as follows:
    1. Charging
      1. Where a complaint of a spousal assault is received, the responsibility for forwarding a charge for approval by Crown Counsel lies with the police. When determining whether to recommend a charge the officer is encouraged to proceed with that recommendation regardless of the apparent willingness of the victim to give evidence or the level of the assault. Except in circumstances where time does not allow only RCC's will be forwarded to Crown for charge approval.
    2. Arrest
      1. Every effort should be made to arrest the suspect if the grounds to do so exist. Police officers are reminded that consistent with the release provisions of the **Bail Reform Act** is the ability to effect an arrest if the attending officer believes the offence may be repeated. To assist in determining the likelihood of further assault, the attending officer is reminded of the fact that spousal assault is known to be a recurring offence.
      2. Where operational circumstances allow, the suspect should be held for a Justice of the Peace or Provincial Court Judge for release on an undertaking specifying no contact with the victim until case disposition. The use of no contact orders provides some possible short-term protection for the victim, and reaffirms the criminal nature of the assault.
      3. Although the policy may be perceived to interfere with an officer's discretion inherent in Common Law, it must be recognized that spousal assaults have distinctive dynamics not found in other assault incidents. The reluctance of the victim is complex, emotional, and often difficult to understand. However, a pro-active police response, regardless of the victim's wishes, may, in the long run, prevent further assaults within the family context.

### 3. Procedure

- a. That monitoring takes place with respect to ensuring that spousal assault calls are treated as priority responses where applicable and appropriate safety information on the nature of these calls can be reviewed on an ongoing basis.
- b. That, where police do not, for any reason, respond, dispatchers record details of the call and the reason for the non-response.
- c. That a standardized information system be developed and implemented to provide adequate information both for police officers responding to spousal assault calls and for monitoring and research purposes.
- d. That, as resources permit, a province-wide computerized system be developed or incorporated into an existing system to provide up-to-date information on the existence and status of any restraining or no-contact order, probation order or peace bond.
- e. That the police officer offer to make appropriate referral calls on behalf of the spouse, requesting that someone contact the spouse if he/she so wishes, and that at the time of response, the spouse be provided with referral cards containing information on:
  1. transition houses and legal and social services available in the community, including reference to Family Court Counsellors;
  2. the individual's right to lay a private information in the event of no action being taken by authorities; and
  3. the case number and attending officer's name and/or number and telephone number; and
- f. That, where necessary or desired by the woman and within police ability, police refer and accompany him/her and his/her children to a transition house or another location within the force's jurisdiction or otherwise ensure their safe transport to such a location.
- g. That, where requested, police fulfil their function of standing by to keep the peace in the event either spouse wishes to return to the marital home to collect their personal effects and those of the children.
- h. That police complete and place on file a detailed occurrence or investigation report for all responses to family violence situations, including those which do not immediately appear likely to proceed to prosecution. Where action is not taken to proceed with charges, the reason for such inaction should be included in the occurrence or investigation report.
- i. That, where resources exist and the need is apparent, crisis teams involving social services professionals be established to support regular police officers in responding to spousal assault calls. These teams should be used only as a support, not an alternative to a generalist approach or a law enforcement function.

- j. That, where resources are not available but the need exists, crisis teams involving local social service professionals be developed on an informal basis.

#### 4. Training

- a. That all RCMP and municipal recruits and veterans be trained in the nature, extent and appropriate response to spousal assault in British Columbia.
- b. That the Justice Institute Police Academy and RCMP "E" Division Training Academy programs be expanded and work in close collaboration to provide this training to all persons involved in the police process including civilian personnel, municipal recruits and veterans and RCMP officers.
- c. That such training courses:
  - 1. be developed in cooperation with community people working with battered spouses;
  - 2. address values, attitudes and myths which operate to lower police charging and arrest rates;
  - 3. address the needs of the victims and characteristics of the batterers;
  - 4. emphasize the appropriateness of police response;
  - 5. provide information on the social and legal services available in the Province and the particular community in which the officer will be working;
  - 6. emphasize criminal and civil remedies which may be pursued in spousal assault cases rather than reconciliation.
- d. Review existing training of police communications personnel in establishing risk to victims and in obtaining essential information in spousal assault cases.

#### 5. Monitoring

- a. That police record all instances of spousal assault and that occurrence and investigation reports and charge sheets for all assaults indicate the relationship between the victim and the assailant, and that the form used to report to Crown Counsel be amended to include the relationship between the victim and offender.
- b. That a central information registry of restraining orders, convictions, peace bonds, no-contact orders and information on the circumstances of previous charges be maintained in each detachment and made available to police answering domestic dispute calls. Where it is impossible to transmit such information over car radios, greater use should be made of telephone communications.
- c. That the development of police data systems currently underway address the problem of making information on spousal assault cases readily accessible, by means of an overcode to the Criminal Code or some other method such as the Police Information Retrieval System (PIRS).

- d. That responsibility for ensuring implementation of the foregoing recommendations be assigned to a specified individual in Police Services Branch of the Ministry and, at the local level, to the municipal Chiefs of Police and commanding officers of the RCMP Detachments.
- e. That each department and detachment monitor the cleared-by-charge rate with respect to spousal assault statistics. When the rate of police charging is judged to be inadequate every effort should be made to rectify the situation.

SPOUSAL ASSAULT  
(CANADIAN OPERATIONAL MANUAL)

1. General

- a. Spousal assault is a serious problem and will be treated as a criminal matter.
- b. Members should be thoroughly familiar with the Attorney-General's revised spousal assault policy (April, 1986) shown in Div. Ops Man, Appendix II-2-6 and with HQ Ops. Man. II.2.L.

2. Investigator

- a. Conduct a thorough investigation to collect all possible evidence to support charge.
- b. Arrest offender if grounds exist.
- c. Hold offender for a Justice of the Peace or Provincial Court Judge in all cases where circumstances dictate.
- d. Recommend that all undertakings specify that the offender have no contact with victim.
- e. Submit a Report to Crown Counsel recommending a charge in all cases where you feel sufficient evidence exists to support it.
  1. The victim's wishes alone shall not affect your decision to proceed with a charge.
- f. Provide the victim with a referral card at the time of response informing him/her of:
  1. transition houses and legal and social services available in the community, including reference to Family Court Counsellors;
  2. the individuals right to lay a private information in the event you do not feel sufficient evidence is present to proceed as directed herein; and
  3. the case number, your name and/or regimental number and telephone number.
- g. Where necessary refer and accompany the victim to a transition house or other location within your area, or otherwise ensure safe transport to such an area.
- h. Standby to keep the peace when requested by either spouse who wishes to return to the marital home to collect their personal effects.
- i. Where charges are not recommended, or when recommended and not proceeded with, complete a detailed occurrence report including the reason for not proceeding.

### 3. Detachment Commander

- a. Ensure procedures are in place for recording, communicating and monitoring spousal assaults in your area.
- b. Use Spousal Assault Form "E" Div 301, available from Division Stores.
- c. Ensure that CPIC and PIRS are used for applicable functions.
- d. Ensure that the following OSR classifications are used when scoring spousal assaults:
  1. Code DK85 - for assault by male offender;
  2. Code DK86 - for assault by female offender; and
  3. Code DK90 - for alcohol related offences.
- e. Ensure despatchers and communications personnel:
  1. treat spousal assault calls as a priority response where applicable;
  2. review appropriate safety information on the nature of these calls;
  3. record details of the call and any reason for non-response by the police; and
  4. implement a system to provide adequate information both for police officers responding to spousal assault calls and for monitoring and research purposes.
- f. Resources permitting, establish crises teams consisting of social services professionals to support regular members. These support teams would not be used in any enforcement function and may be formed on a formal or informal basis.

### 4. Reporting

- a. HQ Ops. Man. II.2.L.1.b.7 & 8 and Div. Ops. Man. Appendix IV-1-1 refer.

#### 4. MANITOBA GUIDELINES ON IDENTIFYING AND REPORTING CHILD ABUSE

Child abuse is a grave, growing and often self-perpetuating problem, which knows no social barriers. Violence in the family is often physically and always emotionally devastating, not only to the child but to the entire family.

Its identification, treatment and prevention require the close collaboration of child caring agencies, law enforcement units, health care workers, educators, and all whose concerns, whether professional or non-professional, touch upon and affect the lives of children.

Expressing a strong commitment to assisting in the provision of a speedy, effective and broad range of services to children and families at risk, the Ministers of Community Services, Health, Education and the Attorney General jointly issue these Guidelines on Child Abuse. Their purpose is to provide a procedural and legal framework for the investigation, detection and management of child abuse cases to the growing community of professionals and lay persons providing services to children and their families.

##### Definitions:

The following definitions apply for the purpose of these guidelines, which are primarily intended for child abuse within the family:

1. "Abuse" means an act or omission by the parent or person in charge of the child, which act or omission results in harm to the child. It includes, but is not necessarily restricted to: physical beating, sexual abuse, and failure to provide reasonable protection for the child from physical harm.
2. "Sexual abuse" means any exploitation of a child whether consensual or not for the sexual gratification of a parent or person in charge of a child and includes, but is not necessarily restricted to: sexual molestation, sexual assault, and the exploitation of the child for purposes of pornography or prostitution.

Sexual abuse includes "incest". Incest is a crime under the Criminal Code of Canada. Therefore the involvement and participation of the local police force is essential in all incest investigations.

Sexual activity between children may constitute sexual abuse if the difference in ages between the children is so significant that the older is clearly taking sexual advantage of the younger.

3. "Emotional abuse" means acts or omissions on the part of the parent or the person in charge of a child, which acts or omissions include but are not restricted to:
  - (a) any unwillingness or inability to provide appropriate care, control, affection or stimulation of a child;
  - (b) making inappropriate demands upon a child;

- (c) exposing a child to frequent family violence tending to produce permanent or long-term emotional disability, including:
  - i non-organic failure to thrive;
  - ii developmental retardation;
  - iii serious anxiety, depression or withdrawal;
  - iv serious behavioural disturbances.

Emotional abuse remains a major concern but does not require police intervention. Nevertheless, a multi-disciplinary team approach may be essential in certain emotional abuse cases.

- 4. "A person in charge of a child" means a person responsible for a child's welfare and includes a guardian or person within the context of a family relationship or foster parent.
- 5. "Third party assault" means abuse which occurs outside the family and technically does not fall within the guidelines but, nevertheless, is subject to:
  - (a) police investigation,
  - (b) referral to an appropriate agency for service, and
  - (c) reporting of the incident to the central abuse registry.
- 6. "Child" means a person under the age of majority. (In Manitoba the age of majority is eighteen).
- 7. "Child caring agency" means:
  - i a child's aid society, or
  - ii a regional office of the Department of Community Services, or
  - iii a child welfare committee appointment under Section 7 of the Child Welfare Act.
- 8. "Medical child abuse unit" means professionals within a hospital setting who are specifically responsible for handling suspected or alleged child abuse cases.

It is expected that the management of child abuse cases within a hospital setting will be from an interdisciplinary perspective and that a hospital child abuse team will therefore be a member of the regional or community team/committee which includes the local child caring agency, law enforcement and medical/health personnel.

### **Guidelines**

- 1. Any person suspecting child abuse shall report it immediately to a child caring agency, the police or a medical child abuse unit.
- 2. (a) Where a report is suspected or alleged child abuse is received by a child caring agency, the agency will consult immediately with the local police force;

- (b) Where a report of suspected or alleged child abuse is received by the local police force, the police will consult immediately with the appropriate child caring agency;
  - (c) Where a report of suspected or alleged child abuse is received by a hospital or other medical health centre with a recognised medical child abuse unit, the hospital/centre will report the incident to the appropriate child caring agency and local police force immediately; and
  - (d) Where a report of suspected or alleged child abuse is received by a hospital or medical health centre without a recognised medical child abuse unit, the hospital/centre will immediately report the incident to the appropriate child caring agency, the local police force or the nearest recognised medical child abuse centre.
3. To ensure that the best course of action is taken in very case, there shall be a mutual sharing of all relevant information by the agencies and professionals involved in the investigation and treatment process.
  4. The protection of the child is the responsibility of all persons involved. The child caring agency, however, has the mandate to protect the child as provided for in the Child Welfare Act (Manitoba), with guidance from the professional team members where a recognised medical child abuse unit exists.
  5. Every child caring agency which received information about the suspected or alleged abuse of a child, including a child in the care of the the agency, shall report the information to the Director of Child and Family Services, as required by the Child Welfare Act (Manitoba) in the manner and form set out in the regulations. Notwithstanding the mandatory requirement for a child caring agency to report, any other professional may and should report a child abuse incident in the same manner and form to the Director of Child and Family Services.
  6. The office of the Director of Child and Family Services shall issue statistical and descriptive data, as extracted from agency reports of suspected or alleged child abuse. A regular review of all abused children reported to the Director shall be required in the manner and form set out by the Director, to ensure the sound disposition of each case, the continuity of service and ultimately the safety of all abused children or children at risk anywhere in the Province.
  7. Each child caring agency should inform the reporter of suspected or alleged abuse of action taken on the report at the earliest appropriate time.
  8. In all cases of physical and sexual abuse the Crown Attorney shall determine the appropriateness of laying any charges upon completion of the preliminary investigation by the child abuse team.

In circumstances where the seriousness and urgency of the case dictates, charges will be laid without prior consultation. It is expected, however, that subsequently there will be ongoing consultation from the initial reporting to the final disposition.

It is our hope that this multi-disciplinary team approach will ensure that the needs of abused children are met, that their rights are protected and that, wherever possible, families can be kept together with the continued support of all involved.

DATED at the City of Winnipeg, in the Province of Manitoba, this 13th day of April, 1984.

## 7. CHILD ABUSE PROTOCOL - INVESTIGATIONS

### OPERATIONAL MANUAL BULLETIN, CANADA

#### 1. GENERAL

- a. Attached as Appendix "A" is a copy of a Child Abuse Protocol which sets forth general principles and guidelines to be used in child abuse investigations by the Dept. of Justice, RCMP, Dept. of Social Services and other Health and Community Services.
- b. Adoption of these principles and guidelines has been formalised at the Provincial level and it is now necessary for implementation at regional and local levels.
- c. This protocol does not require significant changes in our practices and procedures. It amounts to documentation and formalisation of the procedures already being followed.
- d. In order for the protocol to work, each detachment will be required to co-ordinate their response to child abuse investigations with team representatives from other departments.
- e. The local or regional response will involve the development of more specific operating guidelines as is set out in the attached functional statement marked Appendix "B".
- f. The nature of functional statements adopted by each region will vary slightly so it will be necessary for representatives of each department to meet and agree to the steps to be followed.
- g. Existing procedures which have already been established will require re-evaluation to ensure this new Provincial protocol is followed.

#### 2. SUBDIVISION O.C.

- a. Arrange for a meeting with representatives of "team" members, ie Crown Prosecutor, Social Services.
- b. Develop and acceptable "function statement" for your area and agree on review processes to promote implementation of these procedures.

Note: If necessary, more than one function statement may be developed for your area depending on the communities served.

- c. Forward a copy of your proposed function statement to division for review by the Director of Family Law, the Child Protection services and Criminal Operations.

### 3. DIVISION CRIMINAL OPERATIONS

- a. Review the function statements provided by each subdivision with the Dept. of Justice and Social Services.
- b. Notify subdivisions which their statements have been given approval.

D.D.: 87 OCT 02

ORIGINATED BY: Criminal Operations

Attachments: APPENDIX "A" & "B"

CHILD ABUSE PROTOCOL  
(Investigations)

**INTRODUCTION**

A number of agencies are involved in the investigation and management of child abuse cases. Some have legal mandates, some have service mandates, and some have both.

There are overlapping areas of responsibility between the Department of Justice, the Department of Social Services, and the Police, as well as the various health and community services.

**Department of Justice**

- prosecutions, family law unit, corrections, treatment, court services

**Police**

- crime investigation

**Department of Social Services**

- child protection, investigation, case management, family and child support services, referral services
- young offenders services

**Other Health and Community Services**

- assessment for treatment, and treatment services

In this document there will be consistent reference to the "Child Abuse Team". This refers to the group of field professionals involved in the management of any given child abuse case as prescribed by these procedures. Not all potential team members will be involved in every phase of every case.

The agencies contributing to these procedures all believe that the most effective response to all allegations of child abuse is one which is interdepartmental and co-ordinated through the processes of investigation, assessment, intervention and treatment.

To be effective, these procedures must provide an appropriate response to all members of the family. Nevertheless, in all cases, the immediate safety of the child is a primary consideration. Because there could be ongoing risk to the child and because a criminal action may have taken place, reports must be investigated immediately.

In addition to these procedures, attention must also be given to the development of specialised crisis-support-services and treatment services for the child victim and other family members. Without appropriate treatment for the offender, with or without conviction, the risk of reoffence remains high.

While the goal of this co-operative approach is to reach consensus, it must be understood that in the final analysis:

1. The Department of Social Services has the primary legal responsibility for the determination of whether the child is in need of protection.
2. The police are responsible for initiating a criminal investigation.
3. Crown counsel is responsible for undertaking prosecution.

As a part of the process, it is expected that information will be shared among the field practitioners. However, it is understood that information so shared will not be released outside the investigating agencies except with the authorisation of the agency supplying the information. For example, written information such as witness statements obtained by the police should be considered as highly confidential, especially if an investigation is ongoing.

## DEFINITIONS

1. "Child" is anyone under 16 years of age.
2. "Youth" is anyone aged 16 or 17 years.

## PRINCIPLES

1. An effective response to physical and sexual abuse of children and youth requires a co-ordinated team approach to investigation, assessment, intervention and treatment.
2. Any allegation of physical assault of a child or use of a child by another person for a sexual purpose must be investigated.
3. For investigative purposes, a complaint made by a child should be treated in the same manner as if the complaint had been made by an adult.
4. Physical assault of a child or the use of a child by another person for a sexual purpose is abusive and is a criminal act. Where an investigation supports allegations of this nature, team members shall discuss what proceedings are to be taken under the Criminal Code or The Family Services Act or both.
5. Where there is an assessed need for treatment or support services for the abuser, the abused, or any other family member, services should be provided.

## GUIDELINES

1. a) Anyone having reason to believe that physical or sexual child abuse has occurred must report the matter to the Department of Social Services or the police and the agency contacted will immediately act to involve the other.  
b) If someone reports an alleged third party assault of a child, the person should be told to make their report directly to the police.  
c) If the report concerns an assault on a youth, the report must be made directly to the police. Any member of the agencies covered

- 7 by these procedures who receive such a report shall encourage direct and immediate reporting to the police. In addition, assistance may be offered to the youth in order to facilitate the report being made.
- d) Furthermore, in situations where there are children remaining in any situation in which the abuse is alleged to have happened, the agencies should share information so that the need to investigate the risk to these children can be assessed.
  - e) The primary protection responsibility for children remains with the social worker and there must be no delay in proceeding with any necessary action to ensure the child's safety.
2. When the person reporting sexual abuse is a child, particular care should be taken to ensure the child has the support he needs upon making the disclosure.
  3. The purpose of any investigation is to determine whether action under the Criminal code or The Family Services Act is required.
  4. Any member of the team may request the assistance of or make a referral to any other team member as appropriate. For instance, in third party sexual assault situations where the victim is a child, the police may request the assistance of other team members in interviewing the child or where services for a youth are required, the police may make a referral to Social Services or Health.
  5. Where possible without apprehending the child, but for the purpose of maintaining the integrity of the investigation, the alleged child victim and the alleged offender should be separated during the investigation.
  6. Whether or not proceedings are being taken under the Criminal Code, the child protection services worker must make an independent determination with respect to the child's need for protection. If it is believed that the child remains in need of protection, action must be taken under The Family Services Act.

When making decisions concerning actions necessary to ensure the safety of the child, factors such as the likelihood of future abuse, the maintenance of normal family life, and the ability to provide support to the child should be addressed.

Whenever possible, the child should remain in the home. Such cases should be carefully monitored to ensure that the child's safety is not further endangered by contact with the offender. The assessment of the non-abusing parent's capacity to provide support and protection to the child is critical in determining if the child is to remain at home.

7. Upon completion of an investigation, the police will forward a report of their investigation to the Crown Prosecutor. This is not intended to disrupt the usual process of determining whether or not charges should be laid.
8. In order to promote sensitivity, consistency and co-ordination, mandated agencies may appoint specified personnel as members of the Child Abuse

Team and should ensure that any staff involved in these matters are fully informed of these procedures.

9. When there is ongoing involvement with the family and a case plan has been developed, the case management role will be provided by the child protection services worker.

## FUNCTIONS

Within the context of these principles and guidelines, procedures are to be developed for the use of the Child Abuse Team. These procedures will be developed by each of the Child Abuse Project groups and will address the following areas:

1. Reporting
2. Investigation and Assessment
3. Intervention

The "Functions" statement is to be signed off by the Director of Family Law and the Programme Manager, Child Protection Services, before they are implemented. Once they are approved, the one year evaluation period will commence.

Saskatchewan Social Services  
Saskatchewan Justice  
January 12, 1987

## EXAMPLE

This functional statement  
was prepared for use in the  
Regina Region

## Report -

- |    |   |   |
|----|---|---|
| 1. | Anyone having reason to believe that child abuse has occurred must report the matter to the Department of Social Services or the police. The agency contacted will involve the other. The team may then be assembled. | N G O, Citizen, Police D S S, Schools, Health and Community |
|----|---|---|

## Validation of report -

- |    |   |   |
|----|---|---|
| 2. | The situation will be assessed and an investigation strategy determined   | Child Abuse Team of Regina<br>(C A T O R) |
| 3. | An interview of the person who reports the abuse and of the person to whom the child has disclosed the abuse (if another person) will be conducted. | C A T O R                                 |

## Investigation -

- |    |  |  |
|----|--|--|
| 4. | The police will do a background check of the alleged offender.   | Police                                       |
| 5. | Record check will be done on the victim's family and relevant hospital records will be checked.  | D S S  |
| 6. | In conducting the investigation, it is preferable that all steps be carried out with the consent of the parent(s). Should the parent(s) refuse to allow the child to be interviewed and/or medically examined, it may be necessary to apprehend the child. | D S S, Police, Health and Community Services |
| 7. | A detailed interview of the child should be conducted in a neutral setting, considering the needs and best interests of the child. The interview should be recorded in written form. When detailed guidelines have   | C A T O R                                    |

been developed for their use, video and audio equipment should be used where circumstances permit. The nature and purpose of any recordings should be explained to the child, the parent(s) or other support person.

8. A medical assessment should be done. C A T O R  
An early determination should be made on, when and where the medical assessment should occur. Photographs should be utilised to show the injuries. Where it appears that emotional harm has occurred, a referral for psychological assessment should be made.
9. Where physical or sexual assault of a child is alleged to have been committed by someone other than a member of the immediate family or where the victim is over the age of 15, the matter will be investigated by police. The investigating officers will determine whether the family wishes to partake in counselling services. If so, D S S CAU staff will contact the family and make referrals to other agencies as necessary. The police will advise the team of the outcome of their investigation. The team will satisfy itself that child protection is not an issue. C A T O R
10. Where there are siblings of the child, those siblings should be interviewed separately and in private to determine whether they can provide evidence of the abuse and whether they themselves may have been abused. There must be consideration of possible risk to the siblings and the need for apprehension. C A T O R
11. The non-offending parent(s) will be interviewed in person immediately. This interview should be reduced to a written statement and where possible, video or audio tape should be used. An assessment should be done of the parent's capacity to protect the child. C A T O R
12. The suspect must be contacted immediately. Police
13. All suspects will be interviewed according to police policy. Police
14. Full disclosure of what is learned by interviewing the suspect will be made to the D S S CAU staff. Police

15. Where the suspect admits the abuse and indicates a desire to seek help, a referral should be made for assessment and for treatment. Police, D S S, Health and other Community agencies
16. Careful consideration should be given to taking immediate action to ensure that the alleged offender has no unsupervised access to the child. In intra-familial situations every effort should be made to remove the offender, rather than the child from the home. Police, D S S
17. An assessment and case management plan shall be developed which will consider:
- whether to leave the child in the home or take him/her temporarily into care.
  - whether to commence child welfare proceedings, enter into a voluntary services agreement, or to provide voluntary services only.
18. If evidence is sufficient, charges must be laid under the Criminal Code and/or proceedings commenced under the Family Services Act or other statutes. Other agencies involved will be advised as to what action is being taken. Police, Justice, Social Services
19. Where a criminal charge is laid, consideration should be given to the need for a bail hearing before a Justice of the Peace or a Provincial Court Judge to obtain an enforceable "no contact" order as a condition of bail. Police, Justice, Corrections, Probations Services
20. In the case of Court proceedings where the child must appear as a witness, it is the responsibility of the Crown Attorney/Solicitor to interview the child in preparation for court. The Crown must meet with the child at least once prior to the preliminary hearing or trial or family hearing and as often as necessary to interview the child for preparation for court. This interview should be conducted with the child accompanied by the support person (who may be the police officer, social worker, or other person) taking into account the child's wishes. Child abuse unit staff and/or staff of other agencies will be available to provide counselling and Police, D S S, Justice, Health and Community agencies

support to the child/family during the time of preparation for the hearing, during the time of the hearing and immediately afterward.

- |     |   |   |
|-----|---|---|
| 21. | As the situation warrants, specialised assessments and treatment of the child and family will be offered.   | Social Services, Health and Community agencies        |
| 22. | The team will keep in contact during the course of the case and advise the other agencies involved of developments.   | Justice, Police, D S S, Health and Community agencies |
| 23. | There will be a review of all cases on a regular basis to monitor the operation initially. Semi-annually, the participating agencies will meet to assess the effectiveness of the system. | Project committees, or individuals as assigned        |

Evaluation -

- |     |   |                |
|-----|---|----------------|
| 24. | An evaluation of the effectiveness of these guidelines will be conducted. | D S S, Justice |
|-----|---|----------------|

5. THE MANCHESTER MODEL:

THE FIRST SEXUAL ASSAULT CENTRE IN GREAT BRITAIN

by: Dr Raine Roberts

Sexual Assault Centres are not new. They have been in existence for many years in other countries, notably in Australia where they were pioneered by Dr Carol Dellar in Perth, and in parts of North America.

It is perhaps surprising that it has taken so long for a proper service for women complaining of sexual assault and rape to be established anywhere in Great Britain, and that in many areas, both here and abroad, there is still no such service.

In this article, we shall discuss the factors which led to the setting up of the St Mary's Centre in Manchester; how the various agencies learnt to work together; what the problems were and how they were surmounted; and what lessons have been learnt from these problems.

We shall describe the working of the centre with brief details of the work it has done during its first few months of existence.

**The Problems**

There are three major problems with regard to rape.

One is that many women report to the police that they have been raped and then withdraw the allegation. In some cases this is because, though they have undoubtedly been raped, they feel unable to continue with the investigation, and this is understandable when the reality of a rape trial is considered.

In other cases the story proves to be unfounded or differs in material particulars from what it first seemed. In 1984, for instance, of 37 complaints of rape to the Greater Manchester Police where the complainant was examined by one of us (R.R.), 12 proved to be unfounded.

The only way that the police can deal with such complaints is to investigate as though a serious arrestable offence has been committed and put in hand a serious crime investigation. They are not equipped to offer any other kind of help.

Often this is not what the woman wants. She may be making a 'cry for help' and is certainly in need of help and understanding.

The reasons why a woman complains to the police are varied and complex. There may be anger about a situation that went too far or distress and disgust about acts such as oral sex or buggery which were not envisaged though sexual intercourse was agreed to, as well as the straightforward reasons such as a need for justice and a wish to prevent others from suffering similarly. In some cases a number of these factors may operate.

The second problem is that of the many women, perhaps as many as three out of four of those raped, who do not feel able to report to the police. Not only do they not receive any help; they may suffer much more long term trauma than is necessary, and the police are not aware of crimes with which they should be dealing.

Perpetrators of rape are allowed to go unpunished and in some cases will undoubtedly re-offend. This problem was highlighted in Manchester in 1984 when the University authorities became very concerned about a number of students who had been raped and had not reported to the police, but had later suffered serious psychological difficulties which had come to the notice of their tutors.

Thirdly there is usually no provision for after-care and follow-up whether the offence is reported to the police or not. Help may be forthcoming from G.P.s, S.T.D. clinics and voluntary agencies such as Victim Support Schemes and Rape Crisis Lines, but the complainant may be unaware of how to seek help and in any case will have to recount details of her problem afresh.

### **Why Manchester?**

Manchester had had a woman police surgeon available to examine women and children since 1928, and my predecessor, Dr Nesta Wells, called for better facilities for the examination and care of victims in an article in the British Medical Journal in 1961 but nothing was done, though many people expressed concern about the problem.

It was the notorious 'Thames Valley' television programme on rape which showed police officers apparently dealing in a less than satisfactory way with a woman complaining of rape shown nationally at the beginning of 1982 which was the catalyst which eventually led to action.

Manchester had a much better than average service in that an enlightened Chief Constable had already arranged that women were offered the choice of being examined by a woman doctor in a doctor's surgery before the Home Office guidelines were issued, but there was no organised and comprehensive after-care service.

There was a general groundswell of public and professional opinion that something should be done, and a number of lectures and meetings took place in Manchester. St Mary's Hospital showed particular interest in improving its service to women in which it had a proud record dating back to 1791, and in November 1985 a working party was set up to discuss the feasibility of setting up a Sexual Assault Referral Centre in St Mary's and to bring it into being. The working party consisted of representatives of The Police, Police surgeons, St Mary's administrators, Nursing management, a Consultant Gynaecologist and a Consultant Psychiatrist.

Meetings took place at approximate monthly intervals until the centre opened just over a year later. A great deal of hard talking and thrashing out of problems went on at these meetings. Senior police officers, doctors, nurses and administrators all had to make considerable efforts to understand each other's point of view, to make concessions and learn to work together to achieve the common goal.

It was vital to do this. It is very much more difficult to rectify mistakes than to prevent them happening in the first place. All the hard bargaining and straight talking which went on before the centre opened has paid dividends in that it has run relatively smoothly since it opened.

Problems which have caused some friction and discontent particularly with regard to the terms and conditions of service of the counsellors could and should have been avoided by hard negotiation before the centre opened.

## **Funding**

Money was obtained from the Inner Cities Fund of the Department of the Environment to alter and refurbish the accommodation. Running costs of the centre such as heating, lighting and cleaning are paid for by the Health Authority. The salaries of the counsellors and the Clinical Director are paid by the Police Authority.

## **The Open Forum**

One month before the centre opened an Open Forum was held at the hospital to which representatives of professional bodies such as the University, the Area Health Authority, The Family Practitioner Committee representing family doctors, The Social Services and the Police Authority, and representatives of voluntary bodies such as Community Health Councils, Victim Support Schemes, Rape Crisis and Samaritans were invited.

About 100 people attended and members of the working party outlined the plans for the centre and answered questions from the audience. This was a most useful and important exercise and many useful suggestions were made. There had been criticism that because of police involvement in the centre it would not be possible for the service to be confidential for those women who did not want the police to be involved. These fears were allayed.

The problems of ethnic minority women were stressed, but suggestions that a counsellor from the ethnic minorities should have been employed from the outset were not accepted. It may well be that such a counsellor will be employed in the future, but as yet no suitably trained person has applied.

There was also criticism of the fact that the centre was sited in a hospital and that this was "medicalising the problems of raped women", but in the event it has proved to be of inestimable value to have the facilities of the hospital available, not least when one woman with a suspected ectopic pregnancy collapsed during the medical examination and needed urgent resuscitation. The advice and support of the consultant gynaecologist on the management team has been invaluable and she has been able to see women at very short notice.

## **Counsellors**

The Counsellors, three of whom are nursing sisters with counselling training and one a clinical psychologist underwent a six-week training programme in which they attended the policewomen's specialist course, visited the Home Office Forensic Science Laboratory, attended Sexually Transmitted Disease Clinics and Gynaecological clinics and had teaching from the Clinical Director, the Consultant Psychiatrist and Nursing Officers. They also had discussions with members of Rape Crisis line, social services personnel and victim support workers.

The full-time equivalent of 3.5 counsellors provides a 24 hour service. The counsellors are in the centre from 9am to 8pm and on call on rota at all other times.

## **The Jerusalem Declaration**

"All Rape survivors have a right to a collaborative service provided by medical personnel, counsellors and investigators and a right to choose any or all of these services."

- International Congress on Rape, April 1986

## **St Mary's Draft Operational Policy**

"To provide a comprehensive and co-ordinated forensic, counselling and medical aftercare service to those who have experienced sexual assault recently or in the past."

## **What happens in the Centre**

In a straightforward case reported to the Greater Manchester Police, the complainant is brought to the centre after a brief initial interview elsewhere and the whole investigation takes place in the centre. A counsellor stays with the woman throughout the police investigation, including statement taking and medical examination, if the woman wants this. The medical service includes offering the 'morning after' pill and VD advice and treatment both at the initial examination and later at follow-up. After the forensic medical examination the woman can shower in the centre and change her clothing which will be retained for forensic examination. She can then sit in pleasant surroundings with her counsellor and the police officers to give her statement.

If a woman who has been the subject of a recent offence comes to the centre without involving the police, she will be offered all the services of the centre. The police will be informed only if she wishes that but if she is unsure whether she wishes to involve the police, forensic specimens will be taken and stored in the centre for seven days while she makes up her mind what she wishes to do.

Medical examinations and counselling are also available to those who have been assaulted in the past.

Follow-up appointments for medical tests and counselling are offered for as long as necessary and the counsellor will accompany the woman to court and support her during the trial.

An important service offered by the centre is advice and support to the relatives of the complainant. Husbands and boy friends often find great difficulty in coming to terms with what has happened and an important aspect of helping the woman to recover is enabling her relatives to understand and support her.

## The Weekly Case Conference/Policy Meeting

This is a vital part of the work of the centre. The centre works well as a team with members sharing a common purpose, understanding each other's contribution, pooling knowledge and sharing responsibility for the outcome.

All the counsellors, the Clinical Director, forensic physicians, the consultant psychiatrist and the police liaison officer meet every Thursday afternoon to discuss the week's work. All recent cases are fully discussed, those not involving the police being dealt with after the police officer has left.

Decisions to refer outside the centre, for example to social services or to other doctors not associated with the centre, are taken at these meetings and the further management of each individual is discussed and a strategy agreed. It is very important for people working together, particularly in a new and unique venture such as this, to meet regularly and exchange ideas. It helps to foster a feeling of mutual respect among those working together and establishes the corporate identity of the unit.

## Data

About 200 women (and a few men) have been seen in the centre since it opened in December 1986, and many more have been given advice by telephone. The age range has been 12 to 68 with most of the complainants being aged 15 to 25. Of the first 150 cases, 64% were raped by persons they knew; 30% in their own homes; 56% of the referrals were from the police and rest self-referrals or from other agencies such as Women's Aid or Samaritans.

A number of people who have contacted the centre have been the subject of continuing abuse sometimes by a family member since childhood. The centre was not designed primarily to cope with those problems and there has been some confusion in the minds of the public about this. The centre is primarily a crisis intervention service for rape, but there is clearly a vast unmet need for better services for those who have suffered continuing sexual abuse.

Any woman who is going to put herself through the trauma of a rape investigation has a right to expect that the investigation will be conducted to the highest standards from every point of view, but there are still places in this country where a rape examination is done in ten minutes by a doctor who has no forensic training and who does not realise the importance of a thorough examination of the whole body or even how to take the forensic samples correctly. This is a scandal which should no longer be tolerated. It is unfair not only to the complainant, but to the man who may be accused and does not serve the interests of justice.

The Manchester Model offers a standard of forensic excellence combined with a humane and caring approach which should quickly be copied throughout the country.

**APPENDIX 3**  
**COUNTRY BACKGROUND PAPERS**

## I. BANGLADESH:

## VIOLENCE AGAINST WOMEN AND CHILD SEXUAL ABUSE

1. In recent years women and children are increasingly becoming victims of violent crimes like rape, kidnapping, abduction, acid throwing, trafficking for immoral purposes, grievous assault etc. This is happening in Bangladesh as in some other developing countries. Most of those violent crimes appear to be due to socio-economic reasons. In traditional and male dominated societies like ours the age-old systems of marriage, divorce, dowry, property rights etc are often the causes of such crimes. Further, due to poverty, unemployment and other economic considerations many women and children from the rural areas are illiterate and are becoming victims of illicit trafficking. Some unscrupulous persons take them across the border with the allurements of giving employment abroad but the ultimate objective is to sell them for immoral purposes including forced prostitution etc. Minor girls are quite often found engaged in prostitution, brothels etc., mostly for pecuniary reasons. They are brought from the rural areas on the false promise of employment and a bright future but ultimately they find themselves captives inside prostitutions and brothels and are compelled to live in sub-human conditions. Reliable statistics of such violent crimes and human rights abuses are not available but the following data collected from official sources provide some insight into this social problem.

2. The Government of Bangladesh is quite aware of this situation and have been taking steps from time to time by way of enacting new laws or making suitable amendments to the existing ones to curb violence against women/children and the human rights abuse. The most significant piece of legislation in this regard is the Cruelty to Women (Deterrent Punishment) Ordinance, 1983 which provides for exemplary penalty including death sentence for violence against women. Moreover, in December, 1984 Government incorporated a new provision/section 326(A) in the Penal Code, 1860 which provides death sentence for offences such as causing grievous hurt by acid throwing. It is worth mentioning that with the enactment of these laws the violence against women seems to be on the decline. In fact, some persons have been awarded death sentence for violence against women which has produced some salutary effect.

The Ordinance provides for punishment for the following types of offences:

- |   |   |
|---|---|
| (a) Kidnapping or abduction of women for unlawful or immoral purposes.    | - Punishable with transportation for life or with rigorous imprisonment which may extend to 14 years (Section 4). |
| (b) Trafficking in women for prostitution or illicit or immoral purposes. | - Punishable with transportation for life or rigorous imprisonment which may extend to 14 years (Section 5).      |
| (c) Causing death or grievous hurt etc. for dowry.                        | - Punishable with death or with transportation for life (Section 6).  |
| (d) Causing death in committing rape.                                     | - Same as above (Section 7).  |

**STATISTICS OF VIOLENCE AGAINST WOMEN & CHILDREN  
(1986-88 APRIL)**

Year	Kidnap- ing	Rape	Rape with murder	Acid throw- ing on women	Other forms of violence against women like grievous assault etc.	Illicit trafficking in women & children	TOTAL	
	1	2	3	4	5	6	7	8
1986	611	435 (Adult-324 Minor -111)	5	22	85	7	1165	
0987	528	381 (Adult-261 Minor -120)	3	13	97	17	1039	
1988 Jan. to April	288	42 (Adult-26 Minor -16)	-	3	29	24	386	
<b>TOTAL</b>	<b>1427</b>	<b>858</b> (Adult-611 Minor -247)	<b>8</b>	<b>38</b>	<b>211</b>	<b>48</b>	<b>2590</b>	

Note:- Victims of illicit trafficking are: Women - 152  
Children - 99

Total - 251

Mention may be made that in view of the recent alarming increase in trafficking in women and children for illicit purposes the Government has been actively considering amendment of Section 5 of Ordinance, 1983 by providing death sentence and minimum punishment of 7 years imprisonment for such offences. To curb such heinous crimes the Government has also been seeking assistance from neighbouring governments and international organisations like INTERPOL. Crimes like these having transnational character cannot be effectively tackled without such bilateral and multilateral assistance.

Besides the Cruelty to Women (Deterrent Punishment) Ordinance, 1983 there are other laws enacted from time to time to protect the rights of the women.

- (a) The Muslim Family Laws Ordinance, 1961.
- (b) The Child Marriage Restraint Act, 1929.
- (c) The Dissolution of Muslim Marriages Act, 1939.
- (d) Muslim Marriages and Divorces Registration Act, 1974.
- (e) Muslim Marriage and Divorces Registration Rules, 1975.
- (f) Dowry Prohibition Act, 1980.
- (g) Cruelty to Women (Deterrent Punishment) Ordinance, 1983.
- (h) Family Courts Rules, 1985.
- (i) Muslim Family Laws Rules, 1961.

These laws are operative throughout the country and acting as deterrent against violation of women's lawful rights. So far, there have been 14,640 cases under the Dowry Prohibition Act of 1980 since its enactment and 434 cases ended in conviction or fine.

In addition to the Governmental measures different human rights and women's organisations have also been rendering useful services in this field. They have, in fact, been quite vocal about human rights violations especially against women and children and agitating over this issue for the last few years. Besides mobilizing public opinion they have been rendering legal aid and assistance to victims, conducting field studies for collecting reliable data, evidence etc. with a view to creating public awareness. Prominent human rights and women activist groups in Bangladesh include:

- (a) Bangladesh Society for the Enforcement of Human Rights.
- (b) Institute of Democratic Rights.
- (c) Co-ordinating Council of Human Rights in Bangladesh.
- (d) Institute of Human Rights and Legal Affairs.
- (e) Adhikar Trust.
- (f) Bangladesh Human Rights Commission.

- (g) Bangladesh Mahila Samity.
- (h) Nari Nirjatan Pratirodh O Ain Sahayata Committee (Committee for prevention of violence against women and Legal Aid).
- (i) Oikaya Badha Nari Samaj (United Women's Society). This is a united forum formed recently with like-minded women's organisations.
- (j) Nari Pakhha (for women).

Protecting children's rights has been receiving active consideration of our Government and different measures have been taken in this directions from time to time. The basic needs of children and the duties of the state towards them are enshrined in the Constitution of the People's Republic of Bangladesh (Vide Articles 14, 15, 17 and 28 of the Constitution).

With the emergence of Bangladesh a separate piece of legislation was passed entitled "The Bangladesh Children's Act, 1974" incorporating and improving the provisions of the earlier laws. The Act of 1974 provides for trial, custody, protection against offenders, treatment and reformation of the juvenile offenders under 16 years of age. Under this Act a child has been defined as a person under the age of 16 years. On the basis of this Act the National Institute for correctional services was set up near Metropolitan Dhaka City in 1978 with one Juvenile Court, one Remand Home and one training institute. The Act has both reformatory and penal provisions for the children.

The salient features of the Act are as under which are both reformatory/correctional in nature:

- (a) Section 2(f) - A Child means a person under age of 16;
- (b) Section 4 - The High Court Division, a Court of Sessions including an Asstt. Sessions Judge, a Sub-Divisional Magistrate (now Upazilla Magistrate) and a Magistrate of the 1st Class can exercise the power of an Juvenile Court under this Act, whether trying any case originally or an appeal or in revision;
- (c) Section 6 - No joint trial of child and adult;
- (d) Section 7 - Sitting etc. of Juvenile Courts different from sitting days and times of ordinary courts;
- (e) Section 8 - The case of a Juvenile Offender to be separated and transferred to the Juvenile Court and the court empowered to exercise the powers of a Juvenile Court;
- (f) Section 31 - A Juvenile Court may appoint Probation Officers from among suitable persons in the district, if there be no Probation Officer in its area and may appoint a Probation Officer for a particular juvenile considering his religion an the availability of religious facilities;

- (g) Section 50 - The Police have legal obligation to report and co-operate with the Probation Officer;
- (h) Section 16 - Secrecy of the report of the Probation Officers and the proceedings of the juvenile court from press to avoid stigma and to facilitate full rehabilitation of the Juvenile in future.

The Children Act, 1974 also provides for deterrent punishment for special offences in respect of children which are:

- (a) Penalty for cruelty to child;
- (b) For employing children for begin and for giving liquor or dangerous drugs to child;
- (c) For allowing child to be in a brothel for causing or encouraging prostitution or for exploitation of child employees.

Four case studies relating to violence against women and child sexual abuse are enclosed.

#### **DEATH SENTENCE FOR THROWING ACID TO A SCHOOL-GOING GIRL, PARUL OF NARSINGDI (CASE STUDY - 1)**

Afsia Sultana and Parul of Shibpur dist. Narsingdi aged about 13/14 years is a school going pretty girl. Some way-wards including one Shahidul Islam and Badal of the same village used to tease Parul and tried to build up friendship with her. But Parul did not respond. Finding no other alternative said Shahidul Islam and one Sona Miah sent proposals to the mother of Parul to get her marriage. But her mother politely refused both the proposals. Obviously, Shahidul got annoyed and threatened the mother of the girl.

After a few days, the night of 27.2.85 Shahidul Islam entered into Parul's house and threw acid on her face and chest which caused dis-figuration of her face and severe injuries on her eyes and chest. Parul was shifted to Shibpur Upazilla Health Complex for treatment.

Police arrested Shahidul Islam and during investigation made confession before a Magistrate. He further stated that at the time of throwing acid he had also sustained acid burning injuries on her right hand. Police on completion of the investigation submitted charge-sheet against accused Shahidul Islam and referred the cause for trial. The case was tried and the accused Shahidul Islam was sentenced to death for his heinous crime. The death sentence was executed on 3.4.86 in Dhaka Central Jail.

## **SUFIA KHATUN OF SAVAR, THE VICTIM OF DOWRY (CASE STUDY - 2)**

Sufia Khatun of Savar Upazilla dist. Dhaka was married to one Mosharraf Hossain of Rajapur Upazilla dist. Jhalakathi in January, 1987. The marriage was negotiated at the parents level and there was no question of dowry at that time. After about 4/5 months Sufia Khatun was taken to her husband's house at Rajapur, Jhalakathi and she started her conjugal life but the same did not last long. After a few days her husband felt the necessity of some money for carrying on business and at the instance of his father and other relations, asked Sufia to bring Tk.50,000/- from her father. But Sufia refused to bring the same. Being refused her husband and other in-laws started beating her mercilessly causing severe injuries to her person including head injury. She could not contact her father and other relations. Subsequently her father on getting the information, visited the house of his son-in-law at Rajapur and brought Sufia Khatun at Savar. Sufia's husband and her father-in-law demand Tk.10,000/- from her father as the cost incurred the time of this marriage and her father had to hand over a cheque of Tk.10,000/- to them.

In October, 1987 Sufia Khatun accusing her husband, father-in-law and other relations submitted a written complaint to the Upazilla Magistrate, Savar. The local police being endorsed by the Upazilla Magistrate, Savar held an enquiry and recommended the transfer of the case to the Upazilla Magistrate Court of Rajapur dist. Jhalakathi as the occurrence took place there. Accordingly, Savar Upazilla Magistrate referred the case to the Rajapur Upazilla Magistrate in March, 1988. Rajapur Upazilla Magistrate on receipt of the same endorsed the case to the local police for investigation. The local police during investigation arrested the accused husband, father-in-law, mother-in-law and other relation and forwarded them to the court. The investigation of the case is yet to be completed.

The incident was published in the leading daily newspapers and attracted attention of the authority. The concerned agencies have been asked to complete investigation of the case and its trial expeditiously for the ends of justice.

## **JAMILA KHATUN OF BHALUKA, MYMENSINGH - VICTIM OF VIOLENCE BY HER HUSBAND (CASE STUDY - 3)**

Jamila Khatun of Bhaluka Dist. Mymensingh was married to Haider Ali of the same village. She is now the mother of two minor children. Prior to this marriage Haider Ali married twice and divorced both the former wives. Haider Ali, a cultivator by profession is a man of loose character and indulges in various anti-social activities. Jamila tried to refrain her husband from such misdeeds but in return she was tortured brutally and beaten mercilessly by her husband. Once her husband brought one Mohibil Bibi (17) at his residence and decided to marry her. Jamila objected and informed her relations. Haider Ali got infuriated and beat her up mercilessly, kept her confined and did not give her any food the whole day. That was not the end. The following day the husband caught hold of her wife, tied her hands, poured kerosine oil on her body, closed her inside the dwelling hut and set it on fire. Jamila raised alarm but before the neighbours could come she received severe burning injuries on different parts of her body. She is now under treatment in the local Upazilla Health Complex.

Jamila's brother accusing Haider Ali and his other relations registered a case with the police of Bhaluka Police Station. The main culprit, his mother and other relations fled away just after the occurrence. They are still absconding.

The ghastly incident was published in some newspapers which drew the attention of the authority. The government has taken up the matter seriously for bring the culprits to book.

#### **SHAB MEHER, A MINOR GIRL, VICTIM OF CHILD SEXUAL ABUSE (CASE STUDY - 4)**

Shab Meher (12) of Narsingdi district was working as a maid servant. One aged woman namely Jarina neighbour of Shab Meher allured her for a better job and brought to Narayanganj city. She was then taken from one pimp to another and finally sold to one Rahima, the pimp of Narayanganj Tanbazar brother for a consideration of Tk.2,000/-.

After 2/3 days, in March, 1985, the pimp Rahima who kept Shab Meher at her own apartment of Tanbazar Brothel Area allowed one unknown person to have the company of Shab Meher. But she refused. Rahima got infuriated and beat her up mercilessly. Due to inhuman torture Shab Meher received grievous injuries on her person. Rahima then dropped her at Narayanganj Railway Station in an unconscious state. One unknown person finding her with severe injuries arranged her admission in Dhaka Medical College Hospital.

On the following day this was widely circulated in all the Daily Newspapers of the country. Narayanganj Police took up investigation of the case. After about 20 days Shab Meher succumbed to her injuries at Dhaka Medical College Hospital. After investigation Police submitted charge-sheet against 6 accused persons including the two pimps, Jarina and Rahima. The case was tried and Jarina and Rahima were sentenced to rigorous imprisonment for 7 and 10 years respectively. The rest were acquitted.

## 2. CANADA

JUSTICE MINISTER AND SOLICITOR GENERAL  
TAKE STEPS AGAINST SPOUSAL ASSAULT

Ottawa, December 21, 1983 - Justice Minister Mark MacGuigan and Solicitor General Bob Kaplan today announced that policy directives have been issued to instruct the Royal Canadian Mounted Police and Crown Attorneys investigating and prosecuting spousal assault cases in the Yukon and Northwest Territories.

Spousal assault is a serious problem in Canada. According to the Canadian Advisory Council on the Status of Women Report on Wife Battering, one in ten Canadian women is beaten by her husband or partner, and about 20 per cent of all murder victims are women killed by their husbands.

While any type of assault is an offence under the Criminal Code, the Criminal Justice System, including some law enforcement officers and prosecutors, generally has perceived domestic violence as a family problem rather than a crime. As a result, many complaints of spousal assault have not been adequately investigated and prosecuted where reasonable evidence was established.

"These directives are meant to ensure that in the territories, spousal assaults are treated as any other crime of violence", said Dr MacGuigan. "Women must be given the full protection of the law if we are to stop this violence in Canadian homes," he added.

Mr Kaplan said, "These directives, which apply exclusively to the territories, reflect the general law enforcement policy of the RCMP governing spousal assault. This policy has been established in response to the public concern over the victimization of women and involves specialised RCMP training on the laying of charges in cases of spousal assault. I look forward to the adoption of this approach by other jurisdictions in Canada".

The directives require that complaints of spousal assault be investigated immediately and thoroughly by a police officer. If there are reasonable and probable grounds to believe an assault has occurred, the investigating officer should lay criminal charges. Similarly, when charges have been laid, the Crown Attorney will proceed with the case in all but the most exceptional circumstances. One important effect of these provisions is that they remove the responsibility and blame for pressing charges from women, who often fear retaliation.

## RECOMMENDED POLICE DIRECTIVE – SPOUSAL ASSAULT

It is the purpose of this directive to require the full investigation, for prosecution, of cases involving spousal assault and measures for the protection of and assistance to victims. The objective is to take decisions involving prosecution out of the hands of the victim.

### INVESTIGATION AND ARREST

1. All complaints of domestic violence involving spousal assault should be investigated immediately and thoroughly, with the intention of charges being laid for court prosecution, irrespective of whether the assaulted spouse wishes to proceed with charges. An early objective of the investigation should be the protection of and assistance to victims.
2. Police officers should be familiar with and acquaint all victims with community resource such as emergency shelter, legal aid, counselling facilities and welfare services, and assist them in contacting these resources.
3. Where investigation reveals reasonable and probable grounds to believe a serious indictable offence has been committed as part of a domestic dispute, the investigating officer shall arrest the suspect unless, as set out in section 450(2)(d) of the Criminal Code, he has reasonable grounds to believe that the public interest, having regard to all the circumstances including the need to establish the identity of the suspect, secure and preserve evidence, or prevent the continuation or repetition of the offence, may be satisfied without so arresting the suspect. Those charges most likely to arise in this context are: assault – section 245, assault with a weapon or causing bodily harm – section 245.1, aggravated assault – section 245.2, sexual assault as set out in 246.1, 246.2, 246.3, or weapons offences, section 83 to section 89 of the Code. If an arrest is thought necessary, the suspect shall be held in custody pending completion of the investigation and determination of the appropriate terms of release, subject to the requirement under section 454 of the Criminal Code to take the suspect before a justice within twenty-four hours.

### SWEARING OF CHARGES

4. Where investigation supports the conclusion that a spousal assault has been committed, charges should be laid by the investigating officer, the victim served with a subpoena for the earliest possible trial date, a complete brief supplied to the Crown Attorney and a case set to the earliest convenient court docket for appearance. This directive should be considered mandatory and completed irrespective of the wishes of the victim.

### JUDICIAL INTERIM RELEASE

5. During the investigation, the investigating officer should consider what terms would be appropriate in an order for judicial interim release, to protect the victim, for example, an order to abstain from communication of the victim under section 457(4)(d) of the Code. Where no terms are considered necessary, and an arrest has been made, the investigating officer should take the accused before a justice of the peace for release pursuant to sections 454 and 457 of the Code. Where conditions are considered necessary, or release is to be opposed, a bail report shall be prepared for the Crown Attorney, the accused brought before a justice under section 454 of the Code within

twenty-four hours, and remanded for a bail hearing under section 457(1) of the Code. A copy of the interim release terms shall be provided to the victim where there are provisions contained therein for his or her protection. Where the victim has gone to another community, the nearest police detachment shall be informed of the release order and the conditions therein for the protection of the victim.

6. Any breach of the bail terms should be followed by arrest as provided by section 458(2) of the Code and a further bail review under section 458(3) and (4) of the Code.

#### PEACE BONDS

7. The use of the peace bond procedure set out in section 745 and 746 of the Criminal Code should not be pursued as an alternative or recommended in cases of spousal assault.

#### RECOMMENDED DIRECTIVE TO PROSECUTORS – SPOUSAL ASSAULT

It is the purpose of this directive to require the prosecution of spousal assault cases where there is sufficient evidence, and to provide support to the victim throughout the court process.

#### REVIEW OF THE CASE IN TERMS OF RELEASE

1. Where a prosecution brief is received involving a case of spousal assault, the prosecutor should review the brief for completeness, see the charge has been sworn by the investigating officer, and meet with the officer to determine the conditions for bail that will give maximum protection to the victim. He should see that the case is proceeded with in court without undue delay. At the bail hearing, he should press the court for terms that will protect the victim ad oppose bail where the circumstances of the case require it.

#### PREPARATION OF WITNESSES

2. When a prosecution brief has been reviewed with the investigating officer, the prosecutor shall meet with the victim to determine her reliability as a witness, explain the prosecution policy, explain what is expected of a witness in court, and encourage the victim to testify on behalf of the Crown. He should also satisfy himself that the victim has been in touch with available community services and is aware of the release conditions, if any.

#### DISCONTINUATION OF PROCEEDINGS

3. After reviewing the complete prosecution brief with the investigating officer and interviewing the victim, the prosecutor may form the view that the case is not appropriate for prosecution and stay or withdraw the charges. Such a decision shall not be made without prior discussion with the Regional Director and one of the General Counsel, Criminal Prosecution Section or the Assistant Deputy Attorney General (Criminal Law) in Ottawa. Such a decision should consider any history of prior assault, the safety of the victim and other family members, and any threats of intimidation. The termination of a case short of court prosecution should be considered only in the exceptional case and will be made on behalf of the Crown and not by the victim.

## **SENTENCE**

4. Where prosecution results in conviction, the prosecutor shall recommend the sentence which in his view would be appropriate were it not a case of spousal assault. Where an adequate sentence is not obtained, appeal of sentence will be pursued. The prosecutor in speaking to sentence, shall treat the spousal assault case in the same way as he would treat any other assault on a victim who cannot protect his or herself.

## **ANNUAL REPORT**

5. An annual report summarizing the cases of spousal assault prosecuted and the results will be prepared at the direction of the Regional Director and sent to the General Counsel, Criminal Prosecution Section, on the anniversary of the implementation of this policy.

3. THE PROBLEM OF DOMESTIC VIOLENCE IN PNG  
by Dr Christine Bradley  
(Law Reform Commission, Papua New Guinea 1987)

1. Definition of domestic violence

In everyday language, domestic violence is physical assault, with or without a weapon, by one spouse on another.

2. Definition of domestic assault

Domestic assault is the legal term for violence between spouses, and follows the definition of assault given in s.243 subsection 1 of the Criminal Code:

A person who -

- (a) directly or indirectly strikes, touches or moves, or otherwise applies force to, the person of another, without his consent, or with his consent if the consent is obtained by fraud; or
- (b) by any bodily act or gesture attempts or threatens to apply force to the person of another without his consent, under such circumstances that the person making the attempt or threat has actually or apparently a present ability to effect his purpose,

is said to assault that other person, and the act is called an assault.

3. Definition of spouse

Spouse would be understood in its broadest sense, as referring to people who are married, whether according, to custom or under the Marriage Act, as well as to couples who are living together as if they were married - ie in a *de facto* relationship.

It is not necessary to identify the exact nature of the relationship when investigating a domestic assault, except when preparing a case for prosecution, where it becomes relevant because *de facto* spouses are compellable witnesses against each other but married spouses are not.

4. Special nature of domestic assault

Domestic assault is not a separate category of offence under the law. However, it does differ in its characteristics from non-domestic assault, in that:

- assailant and victim are linked in an ongoing relationship that increases the likelihood of future assaults;
- the victim (usually the wife) is normally dependent for every aspect of her existence (and that of her children) on the assailant (normally the husband): this vastly increases the victim's vulnerability to assault;
- domestic assault follows an incremental developmental sequence: ie if nothing is done, it gets worse;
- innocent children often get hurt too.

These characteristics of domestic assault mean that victims are in greater danger, and the consequences tend to be more severe, than for non-domestic assault. Police therefore need to be extra vigilant and conscientious in dealing with domestic disputes. Unfortunately, past practice has been the exact opposite.

## 5. Nature and extent of domestic assault in PNG

In PNG, as elsewhere in the world, most domestic assaults are committed by husbands on their wives, not vice versa. In other words, we are really talking about wife-beating. Wives do hit their husbands, especially in the Highlands, but the main cause is self-defence. A study at Angau Hospital showed that out of 97 patients presenting for domestic violence injuries over a ten week period, only three were men.

### (a) Wives who have been hit

Rural average	= 67%	(lowest = 49% Oro Province)
		(highest = 100% Western Highlands and 97% Chimbu)

Urban low income = 56%

Urban elite = 62%

(Compare Australia = 15%, USA = 17%)

### (b) Frequency

More than once a year, but not as often as once a month, is the majority pattern for all groups. Between 5% and 15% of wives are beaten once a month or more, and about 5% of low-income wives surveyed said they were beaten every week.

### (c) Severity

Most beatings are carried out using bare hands, fists and feet. Weapons are used in less than 20% of assaults. However, severe damage or even death can be caused without the use of weapons, especially in PNG, where spleens may be easily ruptured.

- 17% of urban wives surveyed has needed hospital treatment once or more for injuries inflicted by their husbands;
- 7.5% of urban wives surveyed had called in the police for assaults on them by their husbands.

### (d) Causes of domestic disputes

Respondents to Law Reform Commission surveys listed the three main causes of marital problems as:

- Rural:
1. Sexual jealousy
  2. Wife fail in duties
  3. Dislike of spouse

- Urban low income:           1. Alcohol  
                                  2. Money problems  
                                  3. Sexual jealousy
- Urban elite                   1. Alcohol  
                                  2. Sexual jealousy  
                                  3. Money problems

Note: **sexual jealousy** includes cases where the husband commits adultery and then beats his wife to stop her complaining about it.

(e) Attitudes to wife-beating

- in rural areas, the majority still view wife-beating without a weapon as acceptable under certain circumstances, but there is a wide range across the country:
  - lowest (men) = 17% New Ireland
  - highest (men) = 95% Eastern Highlands and Chimbu
  - lowest (women) = 5% New Ireland
  - highest (women) = 98% Eastern Highlands
  - = 95% Chimbu
- less than 10% feel a husband has a general right to hit his wife;
- in all areas, women find wife-beating much less acceptable than men do;
- those who find wife-beating acceptable do not necessarily find it desirable: a study of Tolai attitudes found that all respondents of both sexes said wife-beating is not desirable;
- practice does not always follow attitudes: many men who say wife-beating is not acceptable still do it.

**A PROGRAMME OF ACTION AGAINST WIFE-BEATING**

**1. LRC report to Parliament**

- proposing changes to laws to clarify police powers of entry to investigate domestic assault, make spouses compellable witnesses against each other, make Domestic Protection Orders easily and quickly available from District Courts, and to make available more alternatives to prison as a punishment.

**2. Public awareness campaign**

- leaflets and posters in Pidgin, Motu and English informing the public that wife-beating is a crime, that it is harmful to the family, and that victims can get help;

- participation by the Health Department, Welfare Offices, Magisterial Service, Village Courts Secretariat, Public Solicitors, church organisations, women's groups, and large companies such as Steamships, etc;
- participation by the police (both regular branch and Community Relations section) in displaying leaflets and posters (as agreed by the Commissioner);
- media coverage of the campaign's progress;
- focus on wife-beating as an election issue in the forthcoming national elections.

### **3. Education**

- curriculum materials are being changed to include information on wife-beating in appropriate courses at primary, secondary, tertiary and vocational institutions.

### **4. Training programmes**

- of professionals such as doctors and other health staff, District Court magistrates, Village Court magistrates, lawyers, probation officers, social workers, teachers and - most important of all - the police, are being revised to identify wife-beating as undesirable and criminal behaviour.

### **5. Enforcement of the existing law on assault**

- this is the job of the police and is the most crucial aspect of the whole programme. How this can be done is the subject of the rest of this paper.

## **POINTS ARISING FROM LRC QUESTIONNAIRE TO POLICE**

### **1. Respondents' attitudes to police intervention in wife-beating cases**

The majority appear to be in favour of intervention; they express more willingness to intervene in wife-beating cases than their actions and their public reputation for non-intervention suggest:

- 61% are prepared to intervene;
- only 25% think domestic fights aren't important;
- only 24% think police action won't do any good;
- only 20% think police should wait till injuries have been sustained;
- only 13% think men have the right to beat their wives;
- 96% expressed willingness to take a beaten wife to a safe place;

- 95% expressed willingness to do whatever seems best for the wife and children;
- 83% feel wife-beating is a problem in the area where they are working;
- many volunteered comments in the "Other Remarks" sections, such as "wife-beating can have serious consequences", "police should be given more powers to deal with domestic disputes", "there should be stronger laws against wife-beating", "there should be tougher penalties for wife-beaters", "wives are human beings too", etc.

## 2. Type of intervention used by respondents

The majority tend not to apply the law, but deal with the situation by stopping the immediate violence, and referring one or both parties to other persons or agencies.

### (a) Referrals

- 92% recommend counselling;
- 68% recommend a District Court summons;
- 6% think police themselves should do the counselling;
- most other referrals are to church leaders, Village Courts, village or community leaders, the woman's own relatives, the Public Solicitor's Office, and to women's leaders, in that order.

### (b) Arrests

- 63% said they would arrest the man if the wife requested it, BUT many qualified their answer by saying the wife would need to really insist;
- 39% say they would arrest the man anyway, BUT "Other Remarks" make it clear that domestic assault has to be much more serious than non-domestic assault before police will arrest.

## 3. Police internal discipline

- 86% are in favour of disciplinary action against police who beat their wives, with or without court action by the wife;
- remarks were volunteered, such as "police have a duty to set an example", "it's not fair to the public if the police aren't punished", "police wives are the worst off".

## 4. Police Safety

Police are apparently not significantly deterred from intervening in domestic disputes by fear of being hit or of later payback:

- only 14% fear being hit
- only 13% fear payback

In some other countries (eg Australia, USA), where firearms are more available to the public, domestic disputes are regarded as being dangerous to police. This appears not yet to be the case in PNG.

## 5. Obstacles to Effective Police Handling of Domestic Assaults

### (a) Misconceptions

Even those police who express positive attitudes towards police intervention (as described above) may be handicapped at the level of action by one or more of the following false beliefs:

- that whatever goes on between husband and wife is their own private business;
- that police can only act in domestic disputes where injuries are serious, or the force used is "excessive";
- that pulling hair, pushing or dragging along, twisting arms, throwing down, pushing against wall, stamping on hands, slapping face, burning skin with cigarettes, etc are not assault;
- that bride-price gives a man the right to bash his wife;
- that a man can hit his wife if he has "good reason";
- that wife-beating is custom in many parts of PNG, therefore it must be alright;
- that a man can do whatever he likes inside his own home;
- that if a wife is bashed, she must have done something to deserve it;
- that if a wife really minded about being hit, she would prosecute the man, or leave him;
- that men are violent by nature, so it's no good trying to stop them;
- that a man who hits when drunk can't be held responsible for his actions.

### (b) Police preference for referral rather than arrest

- related to lack of understanding of police powers and duties;
- in attempting to counsel, reconcile or judge the parties, police are acting outside their sphere of competence.

### (c) Lack of clear police powers of entry to premises

Police powers of entry derive from:

- the common law, ie only where entry is not refused by the occupier;

- the police duty to prevent crime, which may or may not over-ride the Constitutional protection for individual's privacy. (Case law in PNG suggests that it does not).

Because police are not specifically empowered to enter premises to arrest without warrant, many police believe they have no power of entry at all in domestic assault cases.

(d) Wives' failure to report domestic assaults, due to

- wives' belief in some of the above misconceptions, and their almost total ignorance of the law and their legal rights;
- police reputation for not wanting to intervene in domestic disputes;
- fear of retaliation;
- fear of the husband going to jail, and the family losing their financial support;
- hope that the husband will somehow change his behaviour;
- fear of breaking up the marriage, and possibly losing custody of the children.

(e) Failure of the public to report domestic assaults, due to

- prevalence among the public of the misconceptions referred to, and a widespread ignorance of the law;
- police reputation for not intervening in domestic disputes;
- fear of payback.

(f) Wives' tendency not to see prosecutions through, due to

- all the same difficulties as listed under (d); plus
- offender being released on bail, and threatening or forcing the wife into withdrawing;
- relatives of man threatening the wife and/or the children;
- pressure from own relatives to settle for compensation instead;
- lack of confidence in police ability to secure a conviction;
- lack of confidence in magistrates' fairness (some are wife-beaters themselves!);
- fear that everything might get out of hand;
- fear of the unknown;

- belief that the sentence will have to be imprisonment;
- fear that she won't be able to cope on her own;
- belief that the arrest itself has been sufficient to shock the man into changing his behaviour.

## 6. Implications for Training

- (a) "Misconceptions" boil down to an ignorance of the law, and of the relationship of custom to law. It needs to be stressed that customs which contradict the law, such as tribal fighting, payback killings, cannibalism and wife-beating are illegal.
- (b) 68 per cent of respondents feel they need more training. (Some of those who said they didn't need it clearly do too, as their "Other Remarks" showed).
- (c) Training needs to give police an understanding of why wives are not always willing to prosecute. This does not absolve the police of their duty to safeguard the public interest.
- (d) It needs to be emphasised that domestic assault is a serious disciplinary offence under police regulations, as well as a crime.

## SUMMARY OF MAIN POINTS

1. ASSAULT is the direct or indirect application of force, or the threat of it to a person's body without that person's consent. There does not need to be a visible injury.
2. DOMESTIC ASSAULT is the same as the above, occurring between two people living in a marriage-type relationship. It does not need to be more serious than non-domestic assault before police can intervene.
3. Victims of domestic assault (particularly wives) are more at risk of future assaults than are victims of non-domestic assault: they need more support from the police, not less.
4. DOMESTIC ASSAULT IS A CRIME, whether or not the couple are married by law or by custom.
5. DOMESTIC ASSAULT IS A CRIME, whether it takes place at home or in public.
6. DOMESTIC ASSAULT IS A CRIME, whether or not bride-price has been paid.
7. DOMESTIC ASSAULT IS A CRIME, whether or not the wife is alleged to have committed adultery, failed to cook food, spent the family's money, etc: no one is allowed to take the law into their own hands.
8. The role of the police is to PROTECT victims, and to PREVENT further violence, by enforcing the law. Police are not qualified to act as social workers, nor to assess prospects for reconciliation.
9. Police intervention in minor assaults will prevent many major assaults. It can also lessen the likelihood of marriage breakdown due to violence, improve the quality of married life, and reduce danger to children.
10. Arresting without prosecuting is not necessarily a waste of time.
11. If police turn a blind eye to domestic assault, they are contributing passively to violence.
12. The first duty of police is to abide by the law as far as their own families are concerned; they cannot enforce the law against others if they are breaking it themselves.

## WHY DOMESTIC VIOLENCE IS A PUBLIC CONCERN

Domestic violence is a crime, therefore by definition it is not a private matter. It is not always realised that domestic violence has harmful effects, not only for the victim, but also for the victim's family, and for society as a whole.

### 1. Domestic violence spoils family life

- fear is not a good basis for family relationships;;
- may cause break-up of family: since families are the foundation of society, this creates instability and social problems;
- may cause older children to leave home, perhaps support selves by stealing.

### 2. Domestic violence sets a bad example for children

- male children of wife-beaters are more likely to beat their own wives;
- violence learnt in the home can be used outside the home: studies in the States have shown that men imprisoned for crimes of violence had violent home backgrounds.

### 3. Domestic violence has bad effects on children

- they may be injured or even killed during attacks on their mother; miscarriage due to assault on the mother is also not uncommon, and some babies are born with injuries caused by domestic assault;
- they lose respect and love for father, begin to hate and fear him;
- they become frightened and upset, and may suffer behavioural problems, such as nightmares, disturbed sleep, bedwetting, excessive dependence on the mother, refusal to co-operate, inability to concentrate, etc, depending on age and the extent of the violence;
- they are deprived of a model for a healthy marital/parental relationship.

### 4. Domestic violence can end in serious injury, and even death

- in PNG, 73% of murders of adult women and 56% of near murders were committed by their husbands;
- almost all murders committed by women in PNG are of their husbands, and of these husband-murders, all are in retaliation for long-standing mistreatment and violence by their husbands.
- (Based on National Court figures between 1979 and 1982, as presented by Kivung, Doiwa and Cox, at 1982 Waigani Seminar);
- domestic homicides can lead to payback killings and tribal fights;
- domestic violence has an incremental/developmental sequence: ie it begins with minor assaults and gets worse.

**5. Domestic violence is a drain on police and court time**

- approximately 10% of s.6 (SOA) cases are for assaults by husbands on wives; many of these are for serious assaults, which would have resulted in charges of grievous bodily harm, etc if committed against a man. (Data from LRC study of courts in two provinces).
- approximately 7.5% of urban wives surveyed by LRC had called in police against their violent husbands;
- it is now known what proportion of police time is taken up in attending domestic disputes, because police statistics do not allow these to be identified at present.

Note: If police crack down on domestic violence, it will increase their workload in the short-term but decrease it in the long term, once police action becomes an efficient deterrent.

**6. Domestic violence is an unnecessary drain on health services**

- 17% of urban wives surveyed by LRC had needed hospital treatment for injuries inflicted by their husbands;
- health resources are already stretched dealing with unavoidable illness and injuries, without having to deal with **deliberately** inflicted injuries: many men choose exactly where to hurt their wives, according to whether or not they want the injuries to be visible.

**7. Domestic violence causes the loss of many work-hours**

- a study of female staff at UPNG found that 30% had lost one working day or more during the previous month, due to domestic violence.

**8. Wife-beating encourages violence against females, not just wives**

- it associates violence with virility;
- it reinforces the attitude that men can do whatever they want to females, including raping and sexually assaulting them: during the pre-Emergency period in Port Moresby, the rate of reported rape was nearly twice as high as in any American city (figures from Chief Inspector Smith's statement to PMGH workshop on rape); 22% were on girls between 11 and 15 year old, 12% on girls between 8 and 11, and 13% on girls under 8 years old!

**9. Domestic violence helps to perpetuate women's second-class status**

- this is against the Constitution, and the National Goals and Directive Principles.

**10. All violence is a problem for any society**

- it disrupts/destroys normal human relationships, whether between individuals or groups;

- primary function of the law is to control violence, and to replace it with non-violent means of dealing with disputes;
- the overall level of violence in a society can be reduced by tackling it where it is first learnt - in the home!

Police Headquarters  
P O Box 85  
Konedobu  
PAPUA NEW GUINEA  
1st May 1987

Police Headquarters  
P O Box 85  
KONEDOBU  
PAPUA NEW GUINEA  
1st May 1987  
27 November 1986

## ASSAULTS BY HUSBANDS ON WIVES

### ALL ASSAULTS ARE ILLEGAL

An assault by a husband on his wife is no less illegal than an assault by a stranger on another person.

I am gravely concerned at the lack of action being taken by members of the Constabulary on reports of assaults of this nature.

While we wait for changes in the law which will make our task easier the following action will be taken every time a report is received of an assault:

1. The report WILL be investigated in a proper manner.
2. Charges will be laid against the offending husband if there is sufficient evidence available.
3. A statement of complaint from the complainant will be recorded provided she is willing to make one.
4. The practice of using Section 6 of the Summary Offences Act no matter what injury is caused will cease.
5. The correct charge, from assault, bodily harm, wounding, grievous bodily harm will be laid.
6. The husband will be arrested if there is a possibility that the offence will be repeated after police have left the scene.
7. If the husband is arrested AND there is sufficient evidence, he will be detained to appear before the first available Court.
8. The member attending the complainant will NOT decide whether the assault may be excused, authorised or justified by either law or custom or if there has been provocation. That is a decision to be made by the Court.
9. In the more serious cases, it may be possible to proceed by using evidence other than the statement of the injured person. Each case should be decided on the evidence available and if there is any doubt, reference should be made to the Constabulary Legal Department.

**D TASION, CBE QPM**  
Commissioner of Police

## ROYAL PAPUA NEW GUINEA CONSTABULARY

Police Headquarters  
P O Box 85  
KONEDOBU  
PAPUA NEW GUINEA  
27 November 1986

### ASSAULTS ON WIVES BY HUSBANDS

Time has come to focus attention on the alarming situation regarding assaults on wives by husbands. So far, due to traditional ways of thinking, and to the fact that wives more often than not, do not want to pursue the matter in Court, Police have been taking a rather passive attitude. While one can understand this in the case of minor domestic violence when quarrels between husbands and wives do not lead to serious injury or harm, we can see cases of positive brutality, where women have been badly assaulted, sometimes leading to serious injury and hospitalisation. The ugly aspect is that some such incidents had occurred in the presence of policemen. The situation is bad enough to mar the image of Papua New Guinea society itself.

On receipt of this Circular, I want all officers and members of the Constabulary to take the following action.

1. In cases of all serious assaults, where injury has been caused, Court action will be taken, irrespective of the likelihood of the wife being prepared to give evidence. The prospect of having to face Courts may act as a deterrent for the future. All action such as sending the injured person for medical examination will be completed forthwith.
2. Where the husband and wife are living in separation, the case should be treated on one of normal assault, and Court action taken even if the injuries are not serious or no injuries had been caused.
3. No member will allow any assault, serious or otherwise to take place in his presence. Failure to take action will result in disciplinary procedure against the member.
4. In exceptional circumstances, the Police Station Commander may decide not to proceed with Court action. Such decision should be made only by the Police Station Commander and he should document his reasons for doing so. Normally, I would expect statements from both husband and wife supporting such action.
5. Allegations of adultery, unfaithfulness etc, will not be accepted as excuses for serious assault. No one is allowed to take the law in their own hands.

I want this Circular read and explained to all ranks. I intend taking very serious action regarding any breach of instructions listed above.

**D TAISON, CBE QPM**  
Commissioner of Police

#### 4 TANZANIA : VIOLENCE AGAINST WOMEN AND CHILD SEXUAL ABUSE

##### INTRODUCTION

Violence against Women is a common practice in most Contemporary Societies today. Individual or collective violence may involve many acts which may be detrimental both to the Individual and Society as a whole. The origin and the nature of collective violence in the form of riots, upheavals, etc differs markedly from Individual acts of violence such as Murder, assault and rape, all of which involve an accomplishment of personal objective through such violent acts whether it is an argument, personal dispute or sexual intercourse.

Our records on crimes of violence reveal that most acts of violence grow out of an Interaction, ie wherever people are grouped in social organisation and in Tanzania as anywhere else, such problems become less manageable as people concentrate more into a few overcrowded and continually expanding urban centres. This has a deep significance for criminal conduct.

Acts of violence against Women and Child Sexual abuse are prevalent in Tanzania but its extent has not reached the proportions with which we are familiar in some other areas of the world, although our recorded data, on certain incidents suffers from a number of draw-backs. There is, for example, a high level of unreported crime in certain areas. This is because some people in the rural areas prefer to settle their criminal disputes customarily. Also is the reason that, in certain tribes offences like rape or indecent assault for example is an alien import, because under tribal customary practice, sexual intercourse between a girl and a boy cannot be achieved without the use of force even when there is a consent on the part of the girl. It is difficult therefore to draw a line of demarcation between what is rape or an ordinary consented act of sexual intercourse. Under these circumstances no one reports to the Police because of failure to realise that an offence is committed. It should therefore be noted that in certain tribes penal law takes no account of African ideas of crime and morality, and this is one of the major problems confronting our crime statistics in Tanzania.

There are other factors, perhaps perturbing too, ie the feeling of embarrassment to report especially on the part of women in rape cases. Also there is lack of interest to report on the part of the people especially villagers living in remote areas and usually many miles away from Police stations or courts to which they would otherwise lodge their complaints.

The problems discussed above, make the amount of crime actually reported to Police very limited and leave a big lot of crime incidence not known.

## EXTENT OF THE PROBLEM IN TANZANIA

### Reported Cases

Violence against women and child sexual abuse are wide terms which embrace many acts with different labels; but normally there are certain standards of behaviour or moral principles which our societies are deeply concerned with; those which are so detrimental to society that laws have to be invoked against them, and a pervasive problem in criminal law is to determine which sorts of behaviour are to be characterised as criminal.

Under our laws, criminal acts of violence against women and child sexual abuse have been classified in different categories. For criminal acts of violence against women which are normally reported to Police are

- i) Rape
- ii) Indecent assault
- iii) Unnatural offence (buggery)
- iv) Common assaults
- v) Assault causing actual bodily harm
- vi) Grievous harm etc.

All offences of assaults as listed under (iv) to (vi), include those which are committed by male couples in the house (Domestic Violence) and those which are a result of attacks by outsiders on women generally.

We have also criminal acts of child sexual abuse reported to Police which include

- i) Defilement
- ii) Unnatural offences (whether consented or not)
- iii) Indecent assaults, body harrassing etc

The data provided for in this short paper are those as requested based primarily on three aspects namely, data on rape, child sexual abuse (with emphasis on defilement), and domestic violence, ie assaults between husband and wife. This data covers for the period between 1985 and March 1988 as shown here below.

O F F E N C E	1985	1986	1987	1988 JAN-MAR	TOTAL
1. <u>RAPE</u>					
- Cases reported	106	102	109	20	337
- Male arrested	116	90	110	19	331
- Female victims					
2. CHILD SEXUAL ABUSE (DEFILEMENT)					
- Cases reported	43	38	45	24	150
- Girls victims	49	35	48	24	159
- Accused arrested	43	37	39	18	137
3. DOMESTIC VIOLENCE					
- Cases reported	43	77	78	9	207
- Women Victims (killed)	45	77	79	9	210
- Accused arrested	44	56	58	9	167

NB: The figures for Domestic Violence shown in the above table are those where deaths occurred as a result of domestic quarrel between husbands and wives.

The number of victims ie women killed shows to be 210. But there were other female victims totalling about 14 who sustained injuries or harm as a result of assaults by husbands. The total number of cases and victims for each offence of common assault or grievous harm is shown in Appendix "E" and "F".

It should however be noted as pointed out earlier that many Domestic Incidents are rarely reported to Police, unless it is a serious one amounting either to murder or grievous harm. The reason being that among some African tribes beating wives is customarily believed to be an ordinary thing and men believe that they have the right to chastise their wives by beating whenever they misbehave.

Extra figures for all cases on rape (including unnatural offences), defilement and domestic violence reported to Police in each region, in Tanzania are shown for ease of reference in Appendix "A" to "D".

#### COMMON FEATURES FOR THESE OFFENCES

With the exception of rape or even child sexual abuse, Domestic Violence in Tanzania is in most cases a rural phenomenon. But one common feature for all offences is that alcoholic intoxication plays a big role in their genesis. Many quarrels occur in villages at drinking sessions. This is because of alcohol which acts by arresting the functions of the brain (reason) and leave free to respond to emotional dictates of the body without further reference to socially approved ways of living. People commit some of these offences because of failure to regulate their emotions especially when these erupt as a result of argument in the house of jealous delusional states. We have a number of cases where drunkered husbands beat or kill their wives because of jealous accelerated by intoxication. There have been many other cases of rape or defilement by drunkard men some with mental disorders as a result of alcohol. Of course I am not saying intoxication is the only cause of crime against persons and morality, but while each case depends on the circumstances on which it is committed, the majority of cases of this nature have in their origin something to do with alcohol.

#### METHODS OF DEALING WITH THE PROBLEM

There are two methods of dealing with the problem. Confronting violence by Police ie Police action and an effective way of dealing with offenders.

Like in other offences, the Police where preventive measures have failed, take immediate action of arresting and charging offenders for the offences committed. This to a certain extent, helps to remove undesirable elements amid our society and incarcerate them in the Prisons where they can be reformed into good citizens. Meanwhile, the Police in Tanzania is fully engaged in operational planning for these and other serious incidents.

While the Police arrests and prefers charges before courts, which in turn pronounces sentences and orders punishment for the accused; the Prison also plays an important role in the reduction of crimes. The leading principle in imprisonment of criminals in Tanzania now is reformation; but the idea of punishment is also there. Severe punishment in the form of long prison terms is assumed to be a great deterrent and to some extent has succeeded not only to the individual criminal but also to the general public.

Reformation by way of inculcating Political awareness in the minds of the Prisoners as well as imparting skills on productive activity have made the rehabilitation of offenders possible; and the resulting product has added advantage of making some Prisoners abandon their criminal tendencies and lead a more self-reliant life.

Changes in the Penal Law has also helped much in dealing with the problem of child sexual abuse in Tanzania. The Society through their Legislative machinery, has adopted a more strict measure of providing sufficient safeguards against others particularly those who are specially vulnerable to criminal acts like the Youths, the weak in body or mind, by increasing jail sentences and maximum age limit for an offence of defilement of girls; which is now 14 years or below. Formerly, before amending the law, the maximum age limit for offences of defilement was 12 years.

L K Martin  
COMMISSIONER OF POLICE

10th June, 1988  
Police Headquarters  
Dar es Salaam  
TANZANIA

## R A P E

1985 - MARCH 1988

REGIONS	TOTAL CASES REPORTED	RAPED VICTIMS	ACCUSED PERSONS ARRESTED
Dar es Salaam	44	45	33
Pwani	13	13	11
Dodome	19	19	18
Singida	7	8	6
Tabora	27	28	24
Morogoro	18	18	14
Mwanza	23	23	26
Kagera	9	9	9
Sninyanga	8	8	7
Mara	14	14	14
Arusha	13	13	13
Kilimanjaro	35	35	37
Tanga	14	14	14
Mbeya	15	17	22
Iringa	26	26	32
Ruvuma	6	6	5
Mtwara	15	15	11
Lindi	3	4	8
Kigoma	23	24	20
Rukwa	1	1	1
Mwadui	1	1	1
Reli	1	1	1
Tazara	-	-	-
Bandari	-	-	-
Viwanja vya Ndege	2	2	2
T O T A L	337	344	331

DOMESTIC VIOLENCE

1985 - MARCH - 1988

REGIONS	TOTAL CASES REPORTED	DECEASED PERSONS	ACCUSED PERSONS ARRESTED
Dar es Salaam	8	8	6
Pwani	1	1	1
Morogoro	13	13	9
Dodoma	11	11	10
Tabora	7	7	3
Shinyanga	13	13	8
Singida	9	9	7
Rukwa	3	3	3
Mwanza	19	19	17
Ruvuma	7	7	7
Mara	15	15	10
Kagera	18	18	13
Kilimanjaro	9	9	9
Arusha	16	17	14
Mtwara	3	3	3
Tanga	6	6	5
Iringa	27	28	25
Mbeya	14	15	9
Kigoma	5	5	5
Lindi	3	3	3
Mwadu	-	-	-
Reli	-	-	-
Tazara	-	-	-
Bandari	-	-	-
Viwanja vya Ndege	-	-	-
T O T A L	207	210	167

## UNNATURAL OFFENCE (OVER 16 YEARS)

1985 - MARCH - 1988

REGIONS	TOTAL CASES REPORTED	FEMALE VICTIMS	ACCUSED PERSONS ARRESTED
Dar es Salaam	3	3	5
Pwani	4	5	7
Dodoma	4	4	4
Singida	2	2	2
Tabora	1	1	1
Morogoro	7	7	6
Mwanza	-	-	-
Kagera	-	-	-
Shinyanga	1	1	1
Mara	-	-	-
Arusha	-	-	-
Kilimanjaro	2	2	1
Tanga	3	3	2
Mbeya	2	2	2
Iringa	1	1	1
Ruvuma	1	1	1
Mtwara	1	1	1
Lindi	1	1	1
Kigoma	1	1	1
Rukwa	-	-	-
Mwadu	-	-	-
Reli	-	-	-
Tazara	-	-	-
Bandari	-	-	-
Viwanja vya Ndege	-	-	-
<b>T O T A L</b>	<b>34</b>	<b>35</b>	<b>39</b>

## CHILD SEXUAL ABUSE

1985 - MARCH - 1988

REGIONS	TOTAL CASES REPORTED	VICTIMS	NUMBER OF ARRESTED PERSONS
Dar es Salaam	23	24	18
Pwani	7	7	6
Dodoma	10	11	12
Tabora	11	12	12
Morogoro	21	22	15
Kigoma	6	7	5
Ruvuma	3	3	3
Mtwara	7	2	2
Lindi	2	2	2
Rukwa	5	3	3
Arusha	4	4	1
Mwanza	8	18	18
Kilimanjaro	12	12	12
Mbeya	8	8	8
Tanga	12	12	11
Mara	1	1	1
Shinyanga	3	4	2
Iringa	3	3	3
Singida	3	3	2
Viwanja vya Ndege	1	1	1
Mwadui	-	-	-
Reli	-	-	-
Tazara	-	-	-
Bandari	-	-	-
T O T A L	150	159	137

GRIEVOUS HARM, WOUNDING, ETC

1985 - MARCH - 1988

REGIONS	TOTAL CASES REPORTED	VICTIMS PERSONS ACCUSED ETC	ACCUSED PERSONS ARRESTED
Dar es Salaam	8	8	8
Pwani	-	-	-
Dodoma	2	2	2
Singida	-	-	-
Tabora	-	-	-
Mwanza	-	-	-
Kagera	-	-	-
Shinyanga	-	-	-
Mara	-	-	-
Arusha	-	-	-
Kilimanjaro	-	-	-
Tanga	-	-	-
Mbeya	-	-	-
Iringa	-	-	-
Ruvuma	-	-	-
Mtwara	-	-	-
Lindi	-	-	-
Kigoma	-	-	-
Rukwa	-	-	-
Mwadui	-	-	-
Reli	-	-	-
Tazara	-	-	-
Sandari	-	-	-
Viwanja vya Ndege	-	-	-
Morogoro	1	1	1
<b>T O T A L</b>	<b>11</b>	<b>11</b>	<b>11</b>

## A S S A U L T S

1985 - MARCH - 1988

REGIONS	TOTAL CASES	VICTIMS ASSAULTED	ACCUSED PERSONS ARRESTED
Dar es Salaam	3	3	3
Pwani	-	-	-
Dodoma	-	-	-
Singida	-	-	-
Tabora	-	-	-
Morogoro	-	-	-
Mwanza	-	-	-
Kagera	-	-	-
Shinyanga	-	-	-
Mara	-	-	-
Arusha	-	-	-
Kilimanjaro	-	-	-
Tanga	-	-	-
Mbeya	-	-	-
Iringa	-	-	-
Ruvuma	-	-	-
Mtwara	-	-	-
Lindi	-	-	-
Kigoma	-	-	-
Rukwa	-	-	-
Mwadu	-	-	-
Reli	-	-	-
Tazara	-	-	-
Bandari	-	-	-
Viwanja vya Ndege	1	1	1
<b>T O T A L</b>	<b>3</b>	<b>3</b>	<b>3</b>

## 5 ZAMBIA: VIOLENCE AGAINST WOMEN AND CHILD SEXUAL ABUSE

In Zambia, like in many other African countries, family violence is an age old phenomenon. Such violence is an age-old phenomenon. Such violent behaviour was not considered questionnaire most of the time. For instance, it was considered normal for a family to abandon a disabled child. Likewise, severe and repeated physical punishment of women has a long tradition. Physical punishment of wives was considered to be a natural and legitimate means of maintaining order. This notion had a very solid foundation in society. The legacy of this tradition is still vivid in today's Zambia. Most wives still believe that husbands have an inherent right to punish them physically. Because of such conception, family violence does not seem to have drawn much attention in our country. It has never aroused any scholarly discussion for its own sake. There does not seem to have been any unanimous outcry; no public scorn for batterers of wives and children and obviously no marked decrease in the incidence rates as this is rooted deeply in the societal strata as indicated earlier. This is compounded by the fact that victims do not seem to wish to engage in radical social criticism but would rather seek solace in practical assistance. Thus they would rather seek audience with parents of both the victim and the assailant with a view of identifying the problem and finding a practical solution to such a problem. This entails that most of the violent acts are never reported to the police let alone very few are dealt with by courts.

In essence, wife battering is often not regarded as criminal, except in very serious cases. That attitude characterizes the widespread belief that family violence is something quite normal as long as it does not attain disproportionate intensity. It is always viewed as private affair. Experience shows that battered women who call the police are often faced with a down grading of the event by classifying it as a "domestic dispute - no further police action." Very few women have their husbands arrested and usually such cases end up withdrawn by the complainants except where the injury is very serious.

From this foregoing, it is very clear that available statistics do not reflect the true extent of the problem. This is compounded by the fact that "violence against women" is quite an elusive term. The lack of a clear-cut definition is a serious draw back in attempting to establish the exact volume of violence against women that exists.

According to the Zambian experience, the main roots of violence towards women seem to be a particular "machismo" of men coupled with the notion that women are subordinate and inferior as compared to their male counterparts. Besides, in traditional Zambia, like in many other parts of the world, women have been regarded as an extension of property. It means, violence against women is an expression of authority and power.

Furthermore, the Zambian experience is that a good deal of women battering is sparked off by suspected or actual infidelity. Violence has also been used to force unwanted sexual intimacy.

The incidence of child sexual abuse is difficult to estimate owing to lack of accurate information and the fact that many children are unable to report abuses. But it is worthy noting that the incidence of sexual abuse is believed to be on the rise probably due to a worsening economic situation,

Increasing divorce rate, the influence of unhealthy cultural life and moral degeneration and an increase in drug and alcohol abuse.

Be that as it may, physical violence appears to be the most prevalent form of violence, from mild to very severe cases, some leading to death. But as observed earlier, statistics are difficult to come by because our method of recording does not indicate the gender of the victims on the statistical records, let alone the fact that most cases are not at all reported and hence are beyond the reach of the law. Appended hereto however, are statistics of sexual abuse from 1970 to 1985.

In the Zambian situation, there is no special police unit to deal with violence against women. Thus there is no set formula as to what should happen in a given situation. But one general practice has been that conflicts should be resolved without arrest. The reason being that victims often do not want offenders arrested in case of family violence, they call the police for help. Of course, arrests have been made in a number of situations but everything depends upon the complaint.

**APPENDIX 4**

**WORKSHOP PARTICIPANTS AND RESEARCH PERSONS**

**WORKSHOP PARTICIPANTS AND RESOURCE PEOPLE**  
**POLICE TRAINING WORKSHOP ON VIOLENCE AGAINST WOMEN**  
**AND CHILD SEXUAL ABUSE, LONDON, 13 - 21 JUNE 1988**

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Noor Farida Arriffin  
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WORKSHOP SCHEDULE

This Police Training Workshop is intended to meet two major objectives:

- (1) to sensitise and assist policy makers within Commonwealth police forces to recognise the importance of police training on the specific issues of violence against women and child sexual abuse;
- (2) to develop, through the course of the seven day workshop, a set of **Guidelines for Police Training** which the Women and Development Programme will publish and make available throughout the Commonwealth.

**MONDAY 13TH JUNE**

**9.00 am to 9.30 am  
REGISTRATION (Room G3, No 2 Carlton Gardens)**

**9.30 am to 10.45 am  
OPENING REMARKS AND INTRODUCTIONS**

9.30 am Mr Moni Malhoutra  
to Assistant Secretary General  
9.45 am Commonwealth Secretariat

9.45 am Noor Farida Ariffin  
to Director, Women & Development Programme  
10.00 am

10.00 am Introductions  
to  
10.45 am

10.45 am Coffee/Tea Break  
to  
11.00 am

**11.00 am to 12.30 pm  
CONFRONTING VIOLENCE AGAINST WOMEN  
IN THE COMMONWEALTH POLICE ACTION**

**PLENARY**

11.00 am introduced by:  
to Jane Connors  
12.00 noon University of London

12.00 noon Discussion  
to  
12.30 pm

12.30 pm Lunch Break  
to  
2.00 pm

**MONDAY 13TH JUNE (contd.)**

	<b>2.00 pm to 3.30 pm</b>	
	<b>IDENTIFICATION OF POLICE ISSUES AND REGIONAL PRIORITIES</b>	<b>PLENARY</b>
	introduced by:	
2.00 pm	Staff Sergeant Robert Holmes	
to	Royal Canadian Mounted Police	
2.30 pm		
2.30 pm	Jan Pahl	
to	University of Kent	
3.00 pm		
3.00 pm	Discussion	
to		
3.30 pm		
3.30 pm	Coffee/Tea Break	
to		
4.00 pm		
	<b>4.00 pm to 5.30 pm</b>	
	<b>IDENTIFICATION OF POLICE ISSUES (contd.)</b>	<b>PLENARY</b>
	Discussion chaired by:	
	Jane Connors	

**TUESDAY 14TH JUNE**

	<b>9.15 am to 10.45 am</b>	
	<b>ATTITUDE TRAINING AND SENSITISATION:</b>	<b>PLENARY</b>
	<b>An Introduction to the Issues</b>	
	introduced by:	
9.15 am	Detective Inspector Renwick	
to	Metropolitan Police	
9.45 am	(Rape)	
9.45 am	Det. Chief Supt. Kilkerr	
to	Metropolitan Police	
10.15 am	(Child Sexual Abuse)	

TUESDAY 14TH JUNE (contd.)

10.15 am to 10.45 am	Crown Counsel Wendy Harvey, Canada (Domestic Violence)	
10.45 am to 11.00 am	Coffee/Tea Break	
11.00 am GROUPS to 12.45 pm	Group I: Child Sexual Abuse Group II: Domestic Violence Group III: Rape	WORKING
12.45 pm to 2.00 pm	Lunch	
2.00 pm to 3.30 pm	<u>Working Groups</u> (contd.)	
3.30 pm to 4.00 pm	Coffee/Tea Break	
	4.00 pm to 5.30 pm Discussion of Guidelines for Police Training: ATTITUDE TRAINING AND SENSITISATION Chaired by Staff Sergeant Robert Holmes	PLENARY
5.30 pm to 6.30 pm	Time allotted for video showing (Quadrant House Basement)	

WEDNESDAY 15TH JUNE

	<b>9.15 am to 10.45 am</b>	
	<b>ATTITUDE TRAINING AND</b>	<b>PLENARY</b>
	<b>SENSITISATION (contd.)</b>	
	<b>Perspectives on dealing with offenders</b>	
	introduced by:	
9.15 am	Supt. Ian Donaldson and Insp. Stuart Baker	
to	New Scotland Yard	
9.45 am		
9.45 am	Staff Sergeant Robert Holmes	
to		
10.15 am		
10.15 am	Discussion	
to		
10.45 am		
10.45 am	Coffee/Tea Break	
to		
11.00 am		
	<b>11.00 am to 12.45 pm</b>	
	<b>EVIDENCE AND INVESTIGATION:</b>	<b>PLENARY</b>
	<b>Taking Statements</b>	
	introduced by:	
11.00 am	Detective Inspector Renwick	
to		
11.30 am		
11.30 am	Crown Counsel Wendy Harvey	
to		
12.00 noon		
12.00 noon	Discussion	
to		
12.45 pm		
12.45 pm	Buffet Luncheon	
to	(No.2 Carlton Gardens)	
2.00 pm		



THURSDAY 16TH JUNE (contd.)

12.00 noon  
to  
12.30 pm

Discussion

12.00 noon  
to  
2.00 pm

Lunch

2.00 pm  
to  
3.30 pm

Group I: Child Sexual Abuse  
Group II: Domestic Violence  
Group III: Rape

**WORKING GROUPS**

3.30 pm  
to  
4.00 pm

Coffee/Tea Break

4.00 pm to 5.30 pm  
Discussion of Guidelines for  
Police Training:  
EVIDENCE AND INVESTIGATION

**PLENARY**

Chaired by elected participant

FRIDAY 17TH JUNE

9.15 am  
to  
10.15 am

9.15 am to 10.45 am  
**MEDICAL PROCEDURES AND  
FORENSIC EVIDENCE**  
introduced by:  
Dr Frances Lewington  
Metropolitan Police Forensic  
Science Laboratory

**PLENARY**

10.15 am  
to  
10.45 am

Discussion

10.45 am  
to  
11.00 am

Coffee/Tea Break

FRIDAY 17TH JUNE (contd.)

11.00 am to 1.00 pm	Field visit to Metropolitan Police Victim Rape Suite Arbour Square, Stepney, London	
1.00 pm to 2.00 pm	Lunch	
2.00 pm to 3.30 pm	Group I: Child Sexual Abuse Group II: Domestic Violence Group III: Rape	WORKING GROUPS
3.30 pm to 4.00 pm	Coffee/Tea Break	
	<b>4.00 pm to 5.30 pm</b> Discussion of <b>Guidelines for Police Training: MEDICAL PROCEDURES AND FORENSIC EVIDENCE</b>	PLENARY
	Chaired by elected participant	
5.30 pm to 6.30 pm	Time allotted for video-showing	

MONDAY 20TH JUNE

9.15 am to 9.45 am	<b>9.15 am to 10.45 am</b> <b>LIAISON WITH NON-POLICE ORGANISATIONS AND REFERRAL AGENCIES</b> introduced by: Dr Raine Roberts St Mary's Hospital	PLENARY
9.45 am to 10.15 am	Corporal Ruby Burns	

**MONDAY 20TH JUNE (contd.)**

10.15 am  
to  
10.45 am

Discussion

10.45 am  
to  
11.00 am

Coffee/Tea Break

**11.00 am to 12.30 pm**  
**STATISTICS, DATA COLLECTION**  
**AND CASE MANAGEMENT**  
introduced by:

**PLENARY**

11.00 am  
to  
12.00 noon

Staff Sergeant Robert Holmes

12.00 noon  
to  
12.30 pm

Discussion

12.30 noon  
to  
2.00 pm

Lunch

2.00 pm  
to  
3.30 pm

Group I: Liaison with  
Non-Police Organisations  
Group II: Statistics, data collection  
and case management

**WORKING GROUPS**

3.30 pm  
to  
4.00 pm

Coffee/Tea Break

**4.00 pm to 5.30 pm**  
**Discussion of Guidelines for**  
**Police Training:**  
**EVIDENCE WITH NON-POLICE**  
**ORGANISATIONS AND REFERRAL AGENCIES**  
**AND STATISTICS, DATA COLLECTION AND**  
**CASE MANAGEMENT**

**PLENARY**

Chaired by elected participant

TUESDAY 21ST JUNE

9.30 am to 12.45 pm  
RECOMMENDATIONS AND REVIEW  
OF DRAFT GUIDELINES FOR POLICE  
TRAINING

PLENARY

Chaired by:  
Jane Connors

10.45 am  
to  
11.00 am

Coffee/Tea Break

11.00 am  
to  
12.45 pm

(contd.)

**APPENDIX 6**

**FURTHER READING**

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