

Date: March 13, 2022

Subject: Intimate Partner Violence Study

1. Introduction and Background

I am grateful for the opportunity to participate in this study conducted by the Status of Women Committee. I was fortunate to receive word of this important study from Jennifer Koshan from the University of Calgary Law department. At this time, I must remain anonymous, but my anonymous brief can be published online.

Prior to my own experience with intimate partner sexual assault, I had little exposure to this form of assault. As a married woman, I never anticipated it and had never heard anyone speak about it. I understand why people chose not to speak about it much less report it. In my case, I experienced physical assault, sexual assault, and an arrest all at the hands of my husband who also used the gaps between family and criminal law to his advantage.

- Married for over 5 years. At the height of deterioration, my "husband" (ex-partner) physically assaulted and sexually assaulted me within a short period of time.
- My ex-partner came from home with abuse, but I had never perceived him as a possible perpetrator.
- Neither incident was reported to the police immediately and I attempted to manage the matter "privately."
- Failed attempts were made to get my ex-partner to leave the home for a "trial separation".
- Weeks later, I told him I wanted a divorce. The next day he cleared out a bank account, he again refused to leave and there was a confrontation and I hit him.

Criminal Law

- My ex-partner called the police and had me arrested for Domestic Assault. When asked by the male officer if I struck my ex-partner I said "yes," with no further explanation.
- At the station I spoke to duty counsel who advised me to remain silent and my ex-partner would be sorry about calling the police. I took the advice and said nothing of my assaults.
- My ex-partner was not apologetic, and he grossly exaggerated the incident in his police report.
- My ex-partner had no bleeding, scratches, bruises, and either did I.
- My children (his "stepchildren") and I were forced to find somewhere else to live. Living with different friends, family, and hotels over the span of a year. This impacted the school and work schedules of my children significantly.
- I retained a Criminal lawyer and disclosed the assaults to him immediately.
- I reported my physical and sexual assaults approximately three months after the assaults occurred and my ex-partner was charged with Sexual Assault.
- Approximately four months after I reported the assaults another woman confided that my ex-partner had sexually assaulted her. This would be some months prior to my own assaults.
- After speaking with her family, the woman decided to report the assault and a second sexual assault charge was laid.
- It took almost a year before my Domestic Assault charge was dismissed with a Peace Bond.

Family Law

- Living with different friends, family, and hotels over the span of a year was not in the best interest of my children.
- Meanwhile, my ex-partner changed the door locks (with no court order) and alarm code and would not permit my children to enter the home, even with police.
- I had to retain a Family lawyer because the Criminal lawyer could not address these issues.
- I was informed by my first lawyer that it would take long for an emergency motion for exclusive possession of the matrimonial home, because I have “resources” therefore it would likely not meet the requirements for an emergency motion.
- Every opportunity my ex-partner had; he would have his family lawyer reference that I was criminally charged for Domestic Assault. He even filed an application to the court to go before a family court judge. It was evident that he felt he had leverage and planned to use my domestic assault charge to gain “favor” in court. It was tactical and malicious.
- My ex-partner delayed every correspondence between the lawyers by lying or not responding for weeks/months at a time.
- Regardless of his two sexual assault charges my ex-partner continued to push the limits on the family law side.
- My ex-partner assumed “de facto” exclusive possession of the home and the contents and delayed the sale of the property for almost one year.
- After a year of waiting, and complying we never gained access to the home.
- My ex-partner took most of the home inventory and what he did not take, he threw into a storage unit causing intentional damage.

Support/Resources

- Struggling with the many manifestations of PTSD, attending therapist sessions, doctors’ appointments, meeting with lawyers, and working, the PTSD symptoms were exasperated.
- I had to take time off work and gradually returned to a three-day work week, in effort to “save” my career and income.
- I applied for Long Term Disability (LTD) to support my lost income.
- The LTD assessment process was extremely painful and required disclosure of personal medical and therapist records.
- The LTD assessment process took approximately three months and was denied on the basis that I was working 60% and therefore did not meet their criteria for total disability.
- I received the lowest performance rating despite being transparent with my direct manager and most importantly meeting all my objectives for the year. This is not what I expected from a company I had been employed by for over 20 years, and with initiatives supporting “Wellness”.
- There is a budget driven mandate to assign an underperformance rating to one employee. It is my opinion that became the scapegoat given my three-day work week.
- I was deemed fit for full time work by the insurance company because I worked three days a week, and then penalized for only working three days by my direct manager, again despite my actual performance.

2. Considerations

There are so many stories in Canada and abroad to be shared. Unfortunately, people are discouraged and sharing amongst familiar circles may be the only step taken. Reporting, writing briefs, and fighting in court are often viewed as frivolous attempts for change. The effects of IPV are numerous (i.e. financial, social, physical, and psychological). Some causes and/or concerns to be considered are:

- Gender inequality which continues to permeate society and may even be supported by cultural norms which suggest a sense of male “entitlement”.
- Sexual liberation may be stretched and taken out of its intended context leading perpetrators to perceive it as boundless or use it as an “excuse” or “justification”.
- Power and control dynamics that are often misunderstood, glorified, or perceived as being “deeply in love” rather than unhealthy and driven by insecurity.
- A lack of understanding about sexual rights and boundaries even with intimate partners.
- Learned behaviors of such violence that went unaddressed and unmanaged.
- The overwhelming consequences and stigma for the “victims” as opposed to perpetrators, which can be interpreted as supporting male “entitlement”.
- Would it be reasonable to allocate more funds to the judicial processes, rather than the “preventative” measures that may not have an immediately recognizable benefit?

Criminal Law

- The myth that the first to call the police is the “victim”, can lead to abuse of the system to preemptively protect the caller’s own interests.
- Statistics show little success in laying of charges for sexual assault and less for convictions.
- Statistics likely would not reflect how low the reporting rate really is due to the forementioned points, leading many to not report their assaults.
- There is a lack of awareness and sensitivity around intimate partner violence because of the preexisting/existing sexual relationship.
- A male officer engaging with a female at the scene of a domestic issue can be extremely intimidating.
- It is extremely uncomfortable talking to friends and family about IPV (sexual assault), even after they have been made aware. It feels like you are inviting them into your bedroom.
- Sexual assault and domestic violence are too important and reoccurring to have an (1) awareness month.

Family Law

- In the case of IPV, having two separate legal systems (i.e., family and criminal) creates gaps and abuse of those gaps by the perpetrator to inflict more harm and victimization.
- Agreements between legal representation were not considered binding enough to allow for police involvement (where needed).

Support/Resources

- Long Term Disability application process was lengthy and did not seem to accommodate mental health or IPV trauma.
- There needs to be supports in place for middle class/working class victims who also need to be financially enabled, safe, and emotionally/psychologically supported.

3. Recommendations

Criminal Law

- Police called to the scene involving a man and woman should assess the differences in strength, threat level, and understand the motivations for the “force” used by a woman, when deciding to lay charges.
- Police called to the scene involving a man and woman should include a female officer to engage with the woman.
- Agreements between legal representation should be considered binding enough to allow for police involvement (where needed). It is very costly to submit applications/motions to the court when the perpetrator is intentionally delaying and being defiant as a means of inflicting harm.
- The public needs to be made more aware of changes to the legal system and IPV efforts.
- Victims should receive representation as opposed to becoming a “witness for the state.” The Crown Attorney’s office has highly qualified defenders, but this is a sensitive matter that deserves a strong defender without feeling like “just another file.”
- Victims need to see more cases with civil and/or criminal legal consequences.

Family Law

- Integrated courts that cover all aspects of family and criminal law when the same parties are involved in the case.
- Specialized judges to manage family law case conferences and trials that involve family violence.

Support/Resources

- Teach about sexual coercion, consent, and healthy boundaries in school curriculum and youth groups (including religious youth groups).
- Teach about sexual boundaries and consent in pre-marital counseling.
- Mentorship programs for young males and females that are collaboratively led by men and women.
- Mandatory counselling for children who witness assault and/or are victims of assault.
- Paid counselling for victims reporting IPV for the periods leading up to trial and after trial (where applicable).
- Protocols for disability claims need to recognize PTSD as a real concern and insurance companies should not make their own assertions on wellness and ability to work.
- Insurance companies should be prohibited from denying coverage for victims of IPV or other violence.

- Develop a wellness check partner program so IPV victims can support each other (on a one-to-one basis).
- Publicized updates on programs and policies to keep the public abreast of conversations and changes.
- Monthly/quarterly check in with victims scheduled by the case managers from the Crown Attorney's office.
- Crown Attorney's office to provide victims with a package containing a list of the legal contacts, what to expect, and frequently asked questions.

4. Conclusion

Support is needed for victims across every socio-economic and age group. Further, the gaps between the family and criminal legal systems must be addressed and would have a significant impact given most intimate partner assaults would likely involve both legal systems. By my occupation, and as a parent I have always believed that "prevention is better than a cure". However, I struggle with believing this when it comes to IPV. I agree, there are some preventative measures that should be continued or implemented. However, the reason for my skepticism is, for a preventative measure to resonate, I believe there would have to be a perceived risk.

When it comes to intimate partner assault, there would likely be a small minority that would deem it applicable to themselves or others in their life. One would have to believe they know an abuser, are an abuser, or will be abused. This is where I believe there needs to be a balance between prevention and consequences (both civil and criminally). Victims need to have confidence in the judicial system when prevention fails. Perpetrators need to be held accountable to the degree of the offense. That, many victims would agree, comes with criminal and/or civil consequences. I hope this submission will contribute positively to the IPV study.