

Women Take Action

An Injustice of the Criminal Justice System

This infographic provides highlights from research carried out by Counterpoint Counselling and Educational Cooperative.

The project was inspired by a perceived upward trend of women survivors being criminally charged in domestic violence-related incidents. The urgency of exploring this issue was informed by our experience at Counterpoint that most women who were charged:

- were acting in self-defence
- were not the primary aggressor
- suffered serious negative impacts from the process.

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Methodology

- Interviews with professionals involved with domestic violence, including police, forensic nurses, community agency staff.
- 21 qualitative, in-depth interviews in Spanish and English with women charged between 2018-2022.



Context

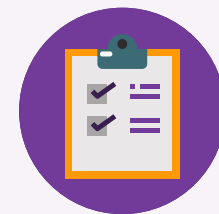
- One police service confirmed a 25% increase in the number of women charged between 2019 and 2021.



20 out of 21 women identified that they were survivors of domestic violence, and, at the time of the incident, were acting in self-defence.



The majority of women had been in the abusive relationship for over 5 years.



Impacts of Being Charged

Being charged increased women's risk of abuse.

Almost 75% of women reported that, because there were no consequences for their partners, their partner felt they could use violence with impunity. Criminal charges were used as a tool for further abuse.

Over half reported they would never call police again... for domestic violence or any other incidents. When they were charged, they lost trust in the system they thought would protect them.

"I felt powerless. He laughed at me and told my daughter, 'Your mother will never work with seniors again for what she's done.'"

Some 57% reported negative impacts on their children's mental health, as well as their access to their children.

"Even if my daddy hurts me, I will never call the police."

Comments from the daughter of a woman interviewed.

Non-English speakers and Indigenous women experienced the system as biased and racist, and particularly punitive.

"I thought that I'm in a country that they care about women, their rights and actually when I called them to ask for help, how could they do that to me?"

All women faced long-lasting negative consequences: 48% lost their housing, and 67% lost jobs or educational opportunities. All also suffered psychological harm.

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Partner Abuse Response Program

- **The majority of those who attended PAR felt that they should not have been forced to do the program when they had done nothing wrong.**
- Being required to attend PAR caused anxiety and stress due to a fear of further legal consequences.
- 100% said the program was not targeted at their needs.

Recommendations

- If a woman is charged but she is not the primary aggressor, she should NOT be forced to take a PAR program. Her charges should be dropped!
- If women are appropriately charged, they need to be in a specialized PAR program that reflects the gendered nature of IPV.

Women's Services

- Women found that women's services did not support women who were criminally charged.

Recommendation

- VAW agencies must offer their services to ALL survivors of abuse, including those charged with criminal DV-related offences.

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Police

- At least 30% of the women reported that police had records of their partner abusing them in previous incidents.
- More than half reported the police did not ask them about the circumstances of the incident, or the history of abuse.
- A majority said police did not identify or photograph self-defensive injuries.

"I'm trying to understand. Did you not look at how many times you guys were dispatched to my apartment for domestic violence. This person has been harassing me forever."

"They basically came to charge me. I didn't really get to say anything. It was [like] they already knew that I was going to be charged."

Recommendations

- Implement DV specialist teams in all police services.
- Ensure police comply with standard DV policies requiring them to determine the primary aggressor, with consequences for failure to follow policy.
- In all cases when a woman is charged with DV-related offences, the case should be reviewed and signed off by a supervisor.



Crown Attorneys

- Crowns are not using their discretion to withdraw charges.
- In two cases involving Indigenous women, sentences proposed were much higher than those typically proposed for male offenders.

"I was fighting for my life today and see, I ended up in a cell for defending my life."

Recommendations

- Crown attorneys must consider the context of the incident and the history of abuse before proceeding with the charge and properly exercise their discretion to dismiss cases as "not in the public interest" where self defence is involved.
- If evidence re: primary aggressor is insufficient or confusing, Crowns should ask police to investigate further.



Interpreter Services

- Interpreter services were not routinely offered (four women in our study), despite there being government-funded interpreter services available.

"He (the husband) was very calm and could speak English."

Recommendations

- Criminal justice players must use existing accredited language interpretation services to ensure all women can fully participate in the court process.
- Oversight by a senior officer will identify if interpreter services were not used, with consequences, including training and monitoring.



Legal Representation

- 24% of women reported unethical behaviour by lawyers, particularly those working for women with limited funds, who appeared to take advantage of, harass and mistreat their clients.
- Women said that most lawyers appeared to have little or no understanding of the dynamics of domestic violence or self-defensive use of force.
- Women explained they didn't know what was happening in their court proceedings, and had no chance to tell their story or plead innocent to the charges.

"My lawyer told me, 'They're not going to waste the time listening to you.' Why not? I have to take this burden my entire life. We need to be heard."

"When I brought up the fact my ex had been abusive for seven years, the lawyer's response was 'why didn't you just leave?' (He) certainly had no idea of what it's like to live with an abuser."

Recommendations

- Defence lawyers should use the Barbra Schlifer Commemorative Clinic model of resolving cases of self-defence, where the defence contacts the Crown as soon as possible, explains the situation and through an agreement charges are dropped and women undertake counselling (not a PAR program).
- Defence lawyers should take the course that Barbra Schlifer offers on how to represent women who have been criminalized.
- Lawyers should ensure their clients understand their options BEFORE pursuing any resolution of their case.