

**FEDERAL STRATEGY ON GENDER-BASED VIOLENCE
BRIEFING NOTES FOR STATUS OF WOMEN CANADA AND THE DEPARTMENT
OF JUSTICE CANADA**

ISSUE: Protection Orders to Keep Survivors of Domestic or Sexual Violence Safer

The availability, accessibility, monitoring and enforcement of Protection orders are an essential part of an effective, coordinated approach to the safety of Canadian women, their children and the community and for the intervention and accountability of perpetrators.

KEY POINTS

- Protection orders are court orders containing a condition to provide safety and security to one or more named people. These include *Criminal Code* orders such as s.810 recognizances (peace bonds), probation and bail orders, civil restraining orders, Family Law protection orders and child welfare protection orders.
- In domestic and sexual violence cases, a high degree of risk is associated with actual or potential breaches of court-ordered protective conditions such as no-contact. Any reported breach must be dealt with as a high-risk situation for victims and others associated with the victim, with an immediate enforcement response required because of the significant risk of escalating violence. Without escalating consequences to address the escalating violence, the risk for the victim increases significantly.
- Research indicates that in domestic violence cases, the rate of non-compliance with protective conditions is high. Vigorous enforcement of protection orders has been shown to enhance victim safety. (EKOS 2000, Russell 2002, Varcoe et al 2000). More data is needed on the number of protection orders issued in domestic violence cases and their efficacy in preventing further violence.
- In British Columbia in 2003, the Criminal Justice Branch, Ministry of Attorney General, introduced changes to its pro-charge spousal assault policy. Instead of vigorous prosecution of these cases, Crown is given greater discretion to consider alternatives to prosecution. Victim safety may be seriously compromised by entering a stay of proceeding and/or the use of peace bonds in situations where insufficient information is available to adequately assess the level of risk caused to the victim by such action.
- Seven Canadian jurisdictions have civil domestic violence legislation allowing emergency protection orders to be issued quickly, with minimal court procedure. Such legislation and/or policy should be accompanied by resources for implementation, funding for training, public education, consultation, stakeholder relationships, coordination, monitoring and evaluation.

SUGGESTED ACTIONS

The federal government should provide strong leadership and develop a coordinated, cross-sectoral Canada-wide strategy involving the justice, health, social services (including anti-violence), housing and education systems to ensure effective utilization and enforcement of justice and child welfare protection orders, including calls for:

- Proactive investigation and prosecution, with escalating consequences, for reported breaches.
- Inclusion of clearly worded enforcement clauses in all protection orders.
- Coordinated information-sharing about risk factors and protective conditions, and provision of information to victims.
- Clarification of roles and responsibilities of all stakeholders in risk assessment, safety planning, enforcement of protection orders and documentation of breaches.
- Proactive referral of victims to Community-Based Victim Services so they can assist with immediate safety planning.
- Direct victim services communication with police and prosecutors on victims' safety needs.
- Enhanced data collection about the number of orders issued, repetition of violence and enforcement of breaches, including effectiveness of dedicated police to enforce breaches.
- A national Protection Order Registry, to which police, criminal justice and child welfare agencies will have access, so they are aware of specific protective conditions and can enforce a breach.
- A coordination of civil and criminal orders to avoid conflicting requirements and address risk to women and their children;
- Encouragement of the private legal bars to include in their Code of Ethics clear guidelines or safeguards to help prevent situations in which domestic violence victims are contacted by defence counsel and inappropriately counselled to seek alternatives to prosecution.
- Training and resources for national justice and child welfare personnel on coordinated risk assessment, safety planning and utilization and enforcement of protection orders, including dynamics and seriousness of domestic violence, women's reluctance to report, safety for children and enforcement issues related to specific types of orders.
- In anticipation of standardized civil domestic violence legislation across the country, develop critical success factors that guide development and implementation such as:
 - Training prior to enactment.

- Community support to ensure a collaborative approach to development and implementation.
- Mechanisms and coordinating committees to ensure problems are addressed early.
- Close monitoring and evaluation, including tracking and vigorous enforcement of breaches.
- Public education to ensure victims and the community are aware.
- Process developed for application of the legislation on reserves, in consultation with Indigenous communities.
- Provision of adequate legal aid resources.

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