

**VIOLENCE, POLICY AND THE LAW:
AN EXPLORATORY ANALYSIS OF CROWN COUNSEL'S
DOMESTIC VIOLENCE POLICY IN BRITISH COLUMBIA**

by

Lori Beckstead
B.A., University of Winnipeg, 2002
B.A., Honours University of Winnipeg, 2003

THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS

In the
School
of
Criminology

© Lori Beckstead 2006

SIMON FRASER UNIVERSITY

Summer 2006

All rights reserved. This work may not be
reproduced in whole or in part, by photocopy
or other means, without permission of the author.

APPROVAL

Name: Lori Beckstead
Degree: Master of Arts
Title of Thesis: Violence, Policy and the Law: An Exploratory
Analysis of Crown Counsel's Domestic Violence Policy
in British Columbia

Supervising Committee:

Chair: Dr. Bryan Kinney
Assistant Professor of Criminology

Dr. Margaret Jackson
Senior Supervisor
Professor of Criminology

Dr. Brian Burtch
Supervisor
Professor of Criminology

Dawn North
External Examiner
Judicial of the Peace Province of British Columbia
MA Criminology Simon Fraser University

Date Defended/Approved: June 12, 2006



DECLARATION OF PARTIAL COPYRIGHT LICENCE

The author, whose copyright is declared on the title page of this work, has granted to Simon Fraser University the right to lend this thesis, project or extended essay to users of the Simon Fraser University Library, and to make partial or single copies only for such users or in response to a request from the library of any other university, or other educational institution, on its own behalf or for one of its users.

The author has further granted permission to Simon Fraser University to keep or make a digital copy for use in its circulating collection, and, without changing the content, to translate the thesis/project or extended essays, if technically possible, to any medium or format for the purpose of preservation of the digital work.

The author has further agreed that permission for multiple copying of this work for scholarly purposes may be granted by either the author or the Dean of Graduate Studies.

It is understood that copying or publication of this work for financial gain shall not be allowed without the author's written permission.

Permission for public performance, or limited permission for private scholarly use, of any multimedia materials forming part of this work, may have been granted by the author. This information may be found on the separately catalogued multimedia material and in the signed Partial Copyright Licence.

The original Partial Copyright Licence attesting to these terms, and signed by this author, may be found in the original bound copy of this work, retained in the Simon Fraser University Archive.

Simon Fraser University Library
Burnaby, BC, Canada



**SIMON FRASER
UNIVERSITY library**

STATEMENT OF ETHICS APPROVAL

The author, whose name appears on the title page of this work, has obtained, for the research described in this work, either:

(a) Human research ethics approval from the Simon Fraser University Office of Research Ethics,

or

(b) Advance approval of the animal care protocol from the University Animal Care Committee of Simon Fraser University;

or has conducted the research

(c) as a co-investigator, in a research project approved in advance,

or

(d) as a member of a course approved in advance for minimal risk human research, by the Office of Research Ethics.

A copy of the approval letter has been filed at the Theses Office of the University Library at the time of submission of this thesis or project.

The original application for approval and letter of approval are filed with the relevant offices. Inquiries may be directed to those authorities.

Simon Fraser University Library
Burnaby, BC, Canada

ABSTRACT

The intent of this research was to complete an exploratory analysis of any changes in dispositions that occurred after the implementation of a new Crown Counsel policy in 2002, particularly any changes in the disposition of stay of proceedings and the use of 810 peace bonds. This research concentrated on the municipalities of Prince George, Richmond and Vancouver, British Columbia, specifically Crown Counsel K-files which indicate dispositions of domestic violence incidents, from 2000-2004. It was determined that after the change in policy there was an increase in the use of 810 peace bonds issued. While the disposition of stay of proceedings with no peace bond attached did decrease; however, the overall levels of this disposition did not change. Ultimately, it was determined that a longer time period needs to be considered after the introduction of policy changes for a more thorough analysis of the effects on domestic violence dispositions.

DEDICATION

Dedicated to my amazing parents, for without them I would not be the person I am today, nor able to accomplish all that I have. Thank you, words cannot express my gratitude, respect and love for both of you. Most importantly, thank you to the Bank of Dad, which I have a feeling is now closed for any further transactions.

ACKNOWLEDGEMENTS

Many people have been instrumental in bringing this thesis to a close. There is no way to name all of you so I will trust that you know who you are. Most importantly, I would like to thank my supervising committee, Dr. Margaret Jackson and Dr. Brian Burtch, for without their continuous support this thesis would never have made it off the ground, let alone completed. Specifically, I would like to thank Dr. Jackson for never giving up on me especially with all the numerous hurdles that had to be overcome. To Dr. Burtch, thank you for taking the time to thoroughly edit what was at times a debacle of words and sentences and for teaching me the beauty of simplicity in writing.

I would also like to thank the Attorney General's office for giving me access to data when no one else would. Without this support, there would have been no thesis on this specific topic. As well, thank you to Nahanni Pollard who endlessly supported and helped me through this process, without her I may still be confused about so many things. Last but not nearly in the least I would like to acknowledge and thank the SFU Supper Club for hours of serious - and not so serious - conversation, laughter and at times, tears. Without all of you, I would be lacking in so much of who I am at the end of all of this, thank you.

CONTENTS

APPROVAL	ii
ABSTRACT.....	iii
DEDICATION.....	iv
ACKNOWLEDGEMENTS	v
CONTENTS.....	vi
FIGURES.....	viii
TABLES.....	viii
ACRONYMS	ix
CHAPTER 1: INTRODUCTION.....	1
Structure and Objectives	2
CHAPTER 2: METHODOLOGY.....	6
Introduction	6
Type of Analysis	6
Research Instrument	7
Limitations of the Data Retrieval	8
Variables of Interest	10
Assessment of Pre/Post Policy Changes	11
CHAPTER 3: THE POLICY ENVIRONMENT	12
Introduction	12
History of Domestic Violence Policy.....	12
Analysis and Evaluation of Domestic Violence Policies.....	13
Unintended Consequences of Pro-Charge Policies.....	16
Analysis and Evaluation of Crown Counsel Policies.....	17
British Columbia’s Crown Counsel Policy	21
VAWIR Policy Comparison and Reform.....	22
New Directions in Domestic Violence Policies	25

CHAPTER 4: THE CONVERGENCE OF FEMINIST THEORY AND THE LAW	29
Introduction	29
Feminist Convergence with the CJS through Policy.....	31
Understanding Feminist Engagement with the CJS: Liberal and Radical Perspectives	34
Radical Feminism.....	36
From Theory to Practice: Critical Race Theory and the Zero-Tolerance Policy	40
Separation of Men and Women: Racialization of Domestic Violence	47
Summary of Feminist Theory and Research leading to Legal Policy	50
CHAPTER 5: RESULTS	53
Introduction	53
General Demographic Overview	53
Domestic Violence Data Results.....	55
Question 1	56
Question 2	62
Question 3	67
Question 4	70
Conditional Sentences.....	73
Jail	73
Probation Orders	73
Fines	74
Summary of Results	74
CHAPTER 6: DISCUSSION	76
Critical-Race Feminism.....	76
Demographics.....	77
Data Result Outcomes – Stay of Proceedings & Peace Bonds	78
Other Dispositions.....	81
Alternative Measures.....	82
Other Future Research in Domestic Violence Policy.....	84
Recommendations	86
Recommendation #1.....	86
Recommendation #2.....	87
Recommendation #3.....	87
Conclusion.....	88
APPENDICES	89
REFERENCE LIST	95

FIGURES

Figure 1:	Total DV Charges by Gender Prince George	57
Figure 2:	Total DV Charges by Gender Richmond	58
Figure 3:	Total DV Charges by Gender Vancouver	58
Figure 4:	Peace Bond Allocation Prince George	60
Figure 5:	Peace Bond Allocation Richmond.....	61
Figure 6:	Peace Bond Allocation Vancouver.....	61
Figure 7:	Total Stay of Proceedings with a Peace Bond Richmond	63
Figure 8:	Total Stay of Proceedings with a Peace Bond Prince George.....	64
Figure 9:	Total Stay of Proceedings with a Peace Bond Vancouver	64
Figure 10:	Total PB Allocated all Municipalities	68
Figure 11:	Peace Bond by Municipality (after found guilty).....	69
Figure 12:	Reasonable Grounds Satisfied by Municipality (after found guilty).....	69
Figure 13:	Conditional Sentences Issued	71
Figure 14:	Jail Disposition all Municipalities	71
Figure 15:	Total Probation Orders Allocated.....	72
Figure 16:	Fines Issued After Guilty.....	72
Figure 17:	Total DV Charged in all Municipalities	89
Figure 18:	Total Allocated Peace Bond Prince George	90
Figure 19:	Total Allocated Peace Bond Richmond	90
Figure 20:	Total Allocated PB Vancouver.....	91
Figure 21:	Total Stay of Proceedings with no Peace Bond all Municipalities	92
Figure 22:	Total Stay of Proceedings with no Peace Bond Prince George.....	92
Figure 23:	Total Stay of Proceedings with no Peace Bond Richmond	93
Figure 24:	Total Stay of Proceedings with no Peace Bond Vancouver	93
Figure 25:	810 Title Change – Subsequent Allocations all Jurisdictions	94

TABLES

Table 1:	Comparison of Pre- and Post-Policy Changes.....	28
----------	---	----

ACRONYMS

CJS	Criminal Justice System
PB	Peace Bond
SORPB	Stay of Proceeding with a Peace Bond
SOR no PB	Stay of Proceeding no Peace Bond
VAWIR	Violence Against Women in Relationships
PRIME	The offender management system used by the Vancouver Police Department
JUSTIN	Justice Information Network
RGS	Reasonable Grounds Satisfied
SARA	Spousal Assault Risk Assessment

CHAPTER 1: INTRODUCTION

In the past 30 years, societal acknowledgment of the deep-seated issue of domestic violence has led to a shift in the Criminal Justice System's (CJS) response to violence in intimate relationships, and the implementation of initiatives to promote prevention and intervention. Moreover, continued research by academics and government officials has allowed for a clearer understanding of the nature and extent of this pervasive violence. Johnson (1996) confirms that criminal justice legislation and policies, which were historically initiated to encourage victims of domestic violence to report to police, have improved the CJS response to these situations and concerns. This represents a dramatic shift from the CJS historical non-response to domestic violence incidents, for example by chastising women who made allegations of abuse and by emphasizing that abuse was a private family issue (Backhouse, 1991). Reflecting this shift, Canada has been among the first of advanced industrial nations to increase funding and awareness for more rigorous law enforcement to combat violence in relationships, as well as enacting pro-arrest/prosecution policies, encouraging the mandatory arrest and prosecution of those who perpetuate violence in intimate relationships. The major theme behind those changes that have been implemented in all provinces and territories is a denunciation of violence in domestic relationships, and an acknowledgment from the CJS that violence against partners will not be accepted.

Structure and Objectives

Although all provinces and territories in Canada have made strides in relation to how violence in the home is viewed and dealt with by the CJS, the focus of this thesis is on the province of British Columbia, specifically Crown Counsel files (K-file Court Data) that record dispositions of incidents of domestic violence post arrest. The specific municipalities under research are Prince George, Richmond and Vancouver. The intent of this research is to complete an exploratory¹ analysis of domestic violence incidents addressed by Crown Counsel in British Columbia from 2000-2004, and examine what outcomes cases received (dispositions) both before and after 2002 when the Crown Counsel section of the Violence Against Women in Relationships (VAWIR) policy² was changed.

This analysis will explore whether the policy revisions in 2002 changed the role of the Crown regarding the type of dispositions given in domestic violence cases,

¹ “Exploratory research aims to gain familiarity with or to achieve insights into a phenomenon, often in order to formulate a more precise research question or to bring light to an issue or topic that incites further and broader future research”. (Palys, 2003, p. 72)

² “For the purposes of this policy, violence in relationships is defined as physical or sexual assault, or the threat of physical or sexual assault with whom they have, or have had ongoing or intimate relationships, whether or not they are legally married or living together at the time of the assault or threat. Other behavior, such as intimidation, mental or emotional abuse, sexual abuse, neglect deprivation and financial exploitation, must be recognized as part of the continuum of violence against young and elderly women alike”. (Ministry of Public Safety and Solicitor General of British Columbia, 2001: <http://pssg.gov.bc.ca/vawc/policy.htm>)

specifically the disposition of stay of proceeding and the use of 810 peace bonds³. The main research questions to be analyzed are:

- 1) What is the gender of the individuals being charged with domestic violence assaults and if there is a difference pre and post 2002, what is it?
- 2) Has there been a decrease in the disposition of stay of proceeding in all municipalities explored, specifically after the implementation of the 2002 Crown Counsel policy?
- 3) Has there been an increase in 810 peace bonds issued after the 2002 directive was initiated?
- 4) Once found guilty, have dispositions rendered changed with the passing of the above discussed policy changes, separate from stay of proceedings and the issuing of peace bonds?
- 5) Can any comparisons be made between municipalities using the above variables?

The exploratory evaluation of the aforementioned questions will also include a broad discussion of the impact of the 2002 policy on the incidence of domestic violence in British Columbia. As well, questions for future research in the area of domestic violence policy will be set out; for example, what impact do changes in one area of an ‘umbrella’ Attorney General policy have on other areas of the same policy?

Feminists’ engagement with the law has created a surge in government and police responses to domestic violence issues. This legal engagement demonstrates the importance of documenting a feminist theoretical perspective while analyzing the K-files collected. Therefore, this approach will be used throughout the duration of the research

³ Section **810** (1) of the Canadian Criminal Code states that “Any person who fears on reasonable grounds that another person will commit a serious personal injury offence, as that expression is defined in section 752, may, with the consent of the Attorney General, lay an information before a provincial court judge, whether or not the person or persons in respect of whom it is feared that the offence will be committed are named”.

Section **811** states that “A person bound by a recognizance under section 83.3, 810, 810.01, 810.1 or 810.2 who commits a breach of the recognizance is guilty of (a) an indictable offence and liable to imprisonment for a term not exceeding two years; or (b) an offence punishable on summary conviction”. R.S., 1985, c. C-46, s. 811; 1993, c. 45, s. 11; 1994, c. 44, s. 82; 1997, c. 17, s. 10, c. 23, ss. 20, 27; 2001, c. 41, s. 23.

to better ground the results as well as the discussion surrounding domestic violence initiatives and policy. A critical race feminist perspective will be applied, as it is the researcher's belief that it is the most appropriate theoretical base when determining the impact of domestic violence and domestic violence law on all women and men. More specifically, what critical race feminists argue for is the inclusion of women and men of race and class in all discussions surrounding domestic violence policy. Critical race feminists such as Crenshaw (1994) and Razack (2000) believe that other areas of feminist theory and research leading to legal policy; have excluded the position and experiences of racialized women and men, ultimately resulting in detrimental effects these groups.

This thesis will be organized into six chapters, the first chapter being the introduction to this thesis research. The second chapter will outline the methodological approach and the discussion of positives and negatives of the file collection. The third chapter will include an overview of the literature, including Canadian, American and British research studies as they relate to domestic violence. Chapter three will also discuss the 2002 Crown Counsel domestic violence policy, specifically the difference between it and the former policy in place. The fourth chapter will present the theoretical perspectives that domestic violence policies are entrenched in, as well as the position of feminist theory that this thesis is written from - critical race feminism. Chapter four will also present whether this position is the most beneficial from which to examine domestic violence relationships. Chapters five and six will include the analysis of the files collected and the relationships or trends between the literature, theoretical perspectives and the court data collected. Overall, it is hoped that the exploratory research presented

will bring insight into the relationship between policy and cases of domestic violence proceeding through British Columbia's criminal justice system.

CHAPTER 2: METHODOLOGY

Introduction

This research serves as a pre/post policy analysis of British Columbia's Crown Counsel domestic violence policy including the years 2000-2004. With the passing of a new policy in 2002, the Attorney General's office claimed that prior to this new policy, reports were indicating that the handing down of the disposition of stay of proceedings was steadily rising and therefore, it was argued, decreasing protection for women caught in domestic violence relationships. It was proposed that increased discretion on the part of Crown Counsel would benefit victims of domestic violence. It is not possible to prove or disprove concretely whether there has been an increase in the safety for victims of domestic violence; this analysis however will give insight into whether basic premises of the new directive passed in 2002 have begun to be implemented. The results may confirm that the new directive has potential to increase safety for these victims; however, future research is necessary to make any conclusive claims.

Type of Analysis

This research follows an exploratory analysis in order to "gain familiarity with or to achieve insights into a phenomenon" (Palys, 2003, p. 72). It is possible to make provisional inferences based on data output, such as whether the use of 810 peace bonds has risen and the disposition of stay of proceedings has decreased, but there can be no definitive arguments made asserting whether the policy has succeeded or not in its

intended task. Therefore, this research male's use of a basic pre/post policy analysis in order to address the specific questions that were stated in Chapter One

Research Instrument

The research instrument used for this thesis was the Attorney General of British Columbia's Court Services Justice Information Network (JUSTIN). The data includes all adults arrested and charged between the years 2000-2004 with domestic violence assaults – known as “k-files”. All data obtained are secondary data previously entered into JUSTIN based on integrated data from local police and RCMP for the municipalities of Vancouver, Prince George and Richmond. These secondary data differ from a primary source of data gathering that would entail the researcher collecting and entering original data directly from the source, for example, case files or incident reports. All data were received in a format that did not include any identifying information regarding persons in contact with the system for domestic violence incidents. Data were originally sent in aggregated format and secondary analysis was conducted on this through the Microsoft® Excel software program. These data were received after a thorough background check of the researcher and required applications were completed and sent through the proper channels, for example Simon Fraser University's Research Ethics Board (REB) approval. Access to court services data was thus granted by the Attorney General judicial review committee for approval of the research as well as by the Ministry of the Attorney General for the province of British Columbia.

The JUSTIN project was initiated in 1995 and put into operation in May 1999. The aim was to provide an integrated data source for Police, Crown, Judiciary, Courts and Corrections, involving almost every aspect of a criminal case. While the JUSTIN

database captures a vast amount of information, for example court scheduling and Crown case assessment and approval, the parameters of this study dictated the need for only a fraction of the information contained therein.

Crown Counsel policies were also analyzed for this research, as well as Vancouver Police policies for the years 2000 and 2002. The Vancouver Police policy was retrieved by requesting the document through the Freedom of Information Section of the Vancouver Police Department. The 2000 Crown Counsel policy was retrieved from the Attorney General's website, and the 2002 Crown Counsel policy retrieved from a doctoral student in the School of Criminology at Simon Fraser University. Once these policies were received, a thorough content analysis was undertaken to link the policies with other literature in the area of domestic violence. As well, the intent was to compare the Crown Counsel policy prior to the changes made in 2002 and afterward. The previously-mentioned policies were necessary to allow a thorough exploratory analysis to be done, one in which a link between the data gathered and the literature is made. Additionally, such a comparison will allow for a theoretical discussion of the relevant policies examined.

Limitations of the Data Retrieval

The main limitation of the court services JUSTIN data is that the specific data are not as complete upon entry as other areas of data entry within the CJS, such as PRIME⁴ – the Vancouver Police data entry system. Court services data are a basic information system on offenders, for example court room scheduling and offence categorical information. It is not uncommon to find discrepancies in the data. As a result, some

⁴ PRIME is the report management system utilized by the Vancouver Police Department.

areas are more detailed and complete than others, leaving the retrieved data with certain holes in it and thus some of the questions originally posed for the research are unanswerable. An example of this kind of limitation is that the category “gender” is sometimes indeterminable based on original entry into the system. The gender categories are thus labelled male, female and unknown. This ‘unknown’ gender category can leave analysis up to speculation because it may not have been entered into the system.

Another limitation of the data received is that the JUSTIN database does not have a category for ethnicity. Because court services data are not an information system for academic use but rather a basic system for court purposes, ethnicity is not deemed a necessary field to be recorded. As a result, the category of ethnicity had to be removed as a variable for coding, and ultimately questions could not be answered in regards to the ethnicity of offenders and outcomes of their charging. This also removes the ability to discuss whether double-charging⁵ may have been occurring as has been alluded to in the literature from other provinces and states⁶.

Another limitation of this research is that the policy analysis only includes a two-year term after the changes were implemented. Therefore, it is impossible, even from an exploratory position, to draw any definitive conclusions or inferences based on the relatively short period after inception. To complete a thorough post policy analysis, it has been suggested that at least five years needs to pass in order to make claims of whether the policy change has been successful or not in meeting its mandate (Famega, 2006).

⁵ Comack et al. (2000) define dual/double-charging as “a circumstance whereby both partners are charged with a criminal offence when police are called in”. (p. 20)

⁶ Whereas it would have been possible to track cases for this purpose by using police file numbers, the author was not provided access to those files.

Even so, this thesis does create a thorough basis for future research, specifically a three-year follow-up study to the data already collected and analyzed.

Variables of Interest

The original variables requested for the purposes of this research for the years 2000-2004 were age, gender, ethnicity, total persons arrested per call, dispositions rendered, issuing of 810 peace bonds, and the municipalities of the above gathered information; Vancouver, Richmond and Prince George. As mentioned in the limitations section above, ethnicity was not available, nor the ability to decipher total persons arrested per call. The data were received in aggregate format within a Microsoft® Excel file spreadsheet and totalled for clearer comprehension. The variables used were separated into spreadsheets labelled *total domestic violence charges* and *domestic violence guilty sentence charge-follow through trends*.

These spreadsheets contained the variables of file location (municipality), gender, years of data gathered (2000-2004), dispositions rendered (guilty, not guilty, other, peace bond, stay of proceeding with peace bond issued and stay of proceeding with no peace bond issued). On the domestic violence guilty sentence charge-follow through trends spreadsheet, the guilty charges are separated into variables of dispositions rendered, for example, jail time served, peace bond, peace bond common law. All aggregated totals listed in the Microsoft ® Excel pivot table were calculated into rates per 1000 population in order to make better comparisons between municipalities⁷. Ultimately, the data

⁷ Another beneficial way to analyze the data would have been to use percentages with regards to the dispositions researched.

retrieved did not consist of all the original variables requested; however, analysis of the data sheets was still thoroughly explored.

Assessment of Pre/Post Policy Changes

In order to explore whether there has been any changes in variables such as, dispositions rendered, numerous questions were addressed using the retrieval database and official domestic violence policies. To reiterate, these questions include:

- 1) What is the gender of the individuals being charged with domestic violence assaults and, if there is a difference pre and post 2002, what is it?
- 2) Has there been a decrease in the disposition of stay of proceedings in all municipalities explored, specifically after the implementation of the 2002 Crown Counsel policy?
- 3) Has there been an increase in 810 peace bonds issued after the 2002 directive was initiated?
- 4) Once found guilty, have dispositions rendered changed with the passing of the new policy separate from stay of proceedings and the issuing of peace bonds?
- 5) Can any comparisons be made between municipalities using the above variables?

These questions are particularly important in analyzing whether there have been overall changes in rates of domestic violence charges. Also important to the discussion of issues surrounding changes in the policy is whether the policy has been effective in achieving its mandated task. It must be noted again that because this study is exploratory in nature, the majority of discussion generated is inferential.

CHAPTER 3: THE POLICY ENVIRONMENT

Introduction

Stimulated in part by media coverage as well as citizens' increased fear of victimization, public concern over the level of violence in our communities has grown substantially in recent decades (Weitzer & Kubrin, 2004). One general direction this concern has taken is an increase in domestic violence initiatives through law reform. It has been argued however, that although individual states in America recognized and responded to this raising of awareness around domestic violence, the Canadian government did not formally recognize violence against women in relationships as a systemic issue until a report was submitted to the House of Commons in 1982 (Pacey, 2002). Based on rising pressure from the public as well as on campaigns by Liberal Feminist lobby groups and women's support organizations (e.g. shelters), by 1985 every province and territory had instituted some form of policy initiative aimed at increasing protection for women from violent partners, and also increasing criminal sanctions for the perpetrators of this abuse. With the exception of Ontario (Jaffe & Burris, 1981), British Columbia accelerated ahead of other provinces in designating and implementing specific policies surrounding situations of domestic violence.

History of Domestic Violence Policy

The feminist anti-violence movement can be traced back to the mid 1970s, basing its advance within the legal sector on the public's response to research that levels of domestic violence in the home were rising. What was portrayed at the time was the

limited attention focused on the issue of domestic violence by the legal system, and the increase in reported cases of domestic violence assault. The first national study of wife battering in Canada was conducted in 1979, and the author estimated that at least 24,000 Canadian women had been battered by their male partners during 1978 (McLeod, 1980, p. 20 as cited in Currie, 1998, p. 45). Currie (1998) notes that “although laws which could protect wives who are battered were technically in place, accepted procedures and expectations written into the law for the purpose of protecting the unity of the family made convictions virtually impossible” (p. 45). This led to the conclusion that legal officials tacitly condoned wife battering. The overall findings for the 1979 national study of wife battering not only uncovered discrepancies within the structure of the law, but also highlighted the scope of the problem of wife abuse and the lack of resources available to them. Ultimately, it was the convergence of these two aspects of the issue that drove feminists more deeply into the battered women’s movement and more specifically towards criminal justice reforms that would adopt a law and order stance like the battered women’s syndrome defense in 1987, and eventually the implementation of zero-tolerance policies⁸ (Martin, 1998).

Analysis and Evaluation of Domestic Violence Policies

For the most part, analysis and evaluation of all domestic violence policies have focused on measuring quantifiable factors relating to increase/decrease of phone calls to police for help, arrest and charge rates of offenders, rates of prosecution and more recently rates of double-charging of the victim and the accused. On the basis of this

⁸ Under a system of zero tolerance, officials working within or for the CJS such as police officers, who might otherwise exercise discretion in making judgments regarding certain offences, such as domestic violence incidents are instead compelled to enforce a pre-determined punishment regardless of the individual or the severity of the offence.

research, the majority of studies conducted have deemed the pro-arrest/pro-charge policies a success in increasing calls to police, increasing arrests of the accused, and increases in rates of prosecution (Pacey, 2001; Ursel 1998, 2001; Jaffe et al., 1990; and Brown, 2000). To evaluate effectiveness, Canadian and American studies alike have statistically examined pre- and post-policy arrest and charge rates indicating that clear increases have occurred post policy implementation (Pacey, 2001). One Canadian study undertaken by Jaffe et al. (1990) showed a 2500% increase in the rates of arrest since implementation of the new pro-charge policies. Jaffe et al. (1990) specifically analyzed the impact of new charging policies in London, Ontario over a 10-year period. Their research indicated a dramatic increase in police-laid charges on perpetrators of violence towards their partners between the years of 1982-1990. The year prior to the pro-charge initiative (1982), police reported only laying charges in 3% of domestic assault cases (Jaffe et al., 1990 as cited in Hilton, 1993, p. 62-95). By 1983, the charges laid increased to 67% and Jaffe et al. (1990) continues to report that by 1990, the rate rose again to an 89% arrest rate⁹.

A more recent study by Brown (2000) examined the extent to which British Columbia's Attorney General's Violence Against Women in Relationships (VAWIR)¹⁰ policy was successful in reducing violence in a domestic circumstance, and victim satisfaction with policy implementation. Brown (2000) reports that 85% of victims stated

⁹ The sample size of this study was not available.

¹⁰ The larger policy being referred to is the Attorney General's Violence Against Women in Relationships (VAWIR) policy originally enacted in 1983. Updated years for this policy include 1986, 1994 and 2000. This policy holds general guidelines for all areas of the criminal justice system with exception to the Judiciary, to follow regarding domestic violence incidents including the specific policies for the RCMP, VPD and Crown Counsel (The Judiciary have agreed to expedite trial dates, but are not subject to AG direction). Although these specific sections of the system may have their own more specific policy guidelines within each department/division/jurisdiction, all of these divisions must follow the overall mandates and guidelines set out in the VAWIR umbrella policy.

that they believe that the policy decreased violence against them by a spouse or partner (the total number of participants in this study was not discussed). In 2002, Statistics Canada echoed this success voiced by victims of violence indicating that there were 9,694 incidents of spousal assault reported in British Columbia, a 3% decrease from the 9,953 reported in 2001. The spousal assault rate in 2002 was 2.34 per 1,000, a decrease of 4% from the 2001 rate of 2.43 (Statistics Canada, 2002).

The overall successes of the pro-charge policies have been positive in many ways in decreasing violence against women by increasing arrest and charge rates, as well as prosecution rates of the accused (Ursel, 1998). In her research on the criminal justice responses to relationship violence in Vancouver, MacRae (2003) indicates “nothing seems to work better than an arrest in providing safety for victims and decreasing the rate of abuse” (p. 9). Jane Ursel (1998, 2001) completed extensive research in the area of domestic violence policy. She argues that for women with no other alternatives than to call the police, domestic violence policies have successfully increased more effective responses by police, along with an increase in calls to the police by women who previously would not have done so. Ursel (2001) reports that in 1993 there was a 33% decrease in women who self-reported having been abused, as well as a decrease in both injury rates and injuries requiring medical attention. There was also a 28% decrease in women who reported an incident of abuse to the police (Ursel, 2001). As a proponent for zero-tolerance policies, it can be inferred that Ursel may be biased in her methodological approach to these research findings. This of course may lead to reservations in the statements made; however, thorough research has supported Ursel’s claims, such as research from Manitoba’s Family Violence Court System (Winnipeg Family Violence

Court Report, 2000). Therefore, such shortcomings can only be inferred and only open an avenue for future research in this area.

Unintended Consequences of Pro-Charge Policies

While the underlying intent of policies and increased enforcement from police and prosecution from Crown Counsel on domestic violence situations is to assist victims of violence in relationships, studies from Canada and the United States have traced emerging patterns of double-charging. The other concern researchers have acknowledged with regards to increased enforcement surrounding violence in relationships is that the vast majority of women being double-charged are from lower income families and areas. They are also largely ethno-cultural minorities, specifically Aboriginal in Canada (Snider, 1990, 1994), and Black and Latino in the United States (Coker, 2001). Comack et al. (2000) found that in Winnipeg, “both the accused and the complainant were charged in 55% of the cases. Stays of proceedings were even higher in those cases where double-charging occurred, recorded at 88 %” (p. 20). Dekeseredy (1997) reiterates these arguments, stating that “domestic violence policies have increased inequities punishing the poor, minority and disenfranchised men for their abuse more than middle-class men and rendered poor minority women helpless within their own situations” (p. 125). Resulting statistics thus indicate a detrimental effect of the domestic violence policy on some women and men of marginalized race and class.

On a cross-national level, numerous studies have been conducted in the United States that indicate similar prevailing problems. Coker (2001) states, “when levels of policing are increased around violence in the home, whether through pro-arrest policies or other initiatives, more women and more low income minorities are arrested for

domestic violence” (p. 831). Zorza and Woods (1994) report findings from their study conducted in Wisconsin for the National Center on Women and Family Law, showing a twelve-fold increase in the arrests of women after the implementation of mandatory charging policies and a two-fold increase for men arrested (as cited in Coker, 2001, p. 831). Coker (2001) mentions a study completed in Milwaukee where Blacks and Hispanics were over-represented in arrests, a factor of 10.6 for the former and 1.6 for the latter. Family violence data collected in Connecticut from 1987-1997 indicated that by the end of the completion of the study, arrest rates for women had increased from 11% in 1987 to 18% in 1997 (Dasgupta, 2001). Ultimately, in examining these trends in both Canada and the United States, it is clear that these issues are something that police forces and governments must address.

The new Crown Counsel policy passed by the BC Attorney General in 2002 has centered on these unintended consequences of pro-charge policies and many other issues in attempting to alleviate the problems of the past.

Analysis and Evaluation of Crown Counsel Policies

The above statistics clearly show that pro- charge/prosecution policies are working to accomplish their mandated task of increasing arrest and charge rates as well as prosecution levels in domestic violence situations. Beyond the charging of individuals in these relationships, however, Crown Counsel faces unfortunate predicaments that the new policy has attempted to alleviate. A new BC Crown Counsel policy was passed in 2002 by then Attorney General Geoff Plant. Prior to the revisions, according to the Attorney General, Crown Counsel often saw charged cases result in a stay of proceedings, rendering victims with absolutely no protection against imminent assaults

(Plant, 2002 as cited in the Report on Violence Against Women by the Ministry of the Attorney General, 2002). Plant (2002) argued that besides dealing with reluctant, even hostile witnesses on a regular basis, too many cases where charges were laid were resulting in a stay of proceedings. Plant (2002) states:

In 2001-2002, almost 8000 spousal assault charges were laid. Of these, 4,000 resulted in conviction, 500 defendants were found not guilty, and charges were stayed in 3,200 cases. Penalties for conviction ranged from discharge to jail time depending on circumstances of the offence and the offender. But when proceedings are stayed, the defendant is free to go. There is no criminal finding and the victim is typically left without protection against future assaults (emphasis added). (p. 1)

British Columbia is not the only province to experience results such as this. Research undertaken in Manitoba by Landau (1998) produced similar findings, in which only 21% of all cases dispatched resulted in charges. There was a lack of physical evidence in 54% of the cases and in 18% of the cases there was an unwillingness of the victim to proceed. Ultimately, only 12% of cases resulted in convictions and only 5% of that 12% received jail sentences (Landau, 1998).

Martin (1994) shows similar findings in a study that consisted of 448 cases of domestic violence analyzed. She found that only 14% of cases ended in prosecution and a conviction. In another study that occurred ten years prior, Martin (1994) shows that only 10% of cases led to arrests. Other relatable studies examined are the Omaha experiment that reported that “64% of arrests were sanctioned, in Charlotte only 25% of all cases were prosecuted, Minneapolis shows only four percent while Milwaukee indicates eight percent of its domestic violence cases ended in prosecution” (Martin, 1994, p. 214). It is interesting to note that the statistics discussed in this article are consistently lower than other categorized misdemeanors, for example, shoplifting despite

the serious nature of the crime of domestic violence. These statistics shed some light on why the British Columbia Attorney General felt the need to revise the policy in 2002. It is important to note however, that then Attorney General Geoff Plant came under fire from the media, the public, feminist lobbyist groups and other areas of the CJS, ultimately resulting in his resignation for the changes implemented to the Crown Counsel section of the VAWIR policy. It can be inferred, however, that these changes made were only a solidification of actions already being practiced within the British Columbia Crown Counsel's office. More detailed research is necessary to confirm this with any certainty.

Domestic violence and the responses to it from criminal justice officials continuously pose hurdles that must be overcome. An important aspect of the new 2002 policy is increased discretion on the part of Crown Counsel when dealing with domestic violence cases. It would seem that this may be a mistake, based on prior research into the increased discretion of law enforcement officials (Buzawa & Buzawa, 1990; Dekeseredy, 1997). The topic needs further in-depth research especially in relation to this specific policy. Reporting in Saskatchewan in 1995, Rosanna Langer puts forward that the justice report found the most common reasons Crown Counsel and Judges gave for dispositions such as a stay of proceedings were; 1) lack of previous/recent criminal record (19%), 2) existence of criminal record (15%), and 3) reconciliation between the victim and the offender (partner) was also reported at 14%. Langer (1995) also shows prosecutors did discuss that one of the most common reasons for the inability to lay charges and prosecute was victim reluctance. Facing this common obstacle, prosecutors must exercise some form of discretion with regards to the possible outcome of the case.

It must be noted that Crown Counsel are in no way obligated to commence prosecution or the laying of charges. Prosecutors may decline to process the complaint if finding the defendant guilty is doubtful or if the evidence is insufficient. What also comes into play is the issue of a victim recanting her original statement of harm by her partner. It is not surprising that the Schmidt and Steury (1989) research study above indicates that out of 200 non-charged cases sampled, slightly more than two-thirds were simply not processed (70%), 24% were held open and 6% were diverted. In nearly half (45%) of the non-charged cases sampled, "victim's wishes" was the primary reason given for not prosecuting (Schmidt & Steury, 1989, p. 495).

Although the above statistics have painted a questioning picture, it is important to briefly discuss both sides of why victim recanting may be such a prevalent problem. Langer (1995) puts forth that women may reconcile or recant because they feel it is the safer choice to make. Women sometimes feel - and are - re-victimized through the legal process, for example being charged with contempt of court for refusing to testify (Case of *R. v. Moore*; Dekeseredy, 1991, 1997). Langer (1995) states that when women were asked what they hoped they would accomplish through their legal action, the majority wanted to be left alone by their abuser to heal and to live safely (also cited in Hilton, 1993). In Gloria Geller's (1991 as cited in Langer, 1995, p. 88) Regina study, 45% of the study wanted their partners to take responsibility while 10% wanted actual punishment for the abusers. Questions ultimately arise about whether policy creators are listening to what women actually want in regards to their experience with the system or whether it is the lack of understanding of options (based on fear of reprisal) and alternative safe ways out that explains why these women do not want punishment. There is no question that all

policies on domestic violence are a continuous work in progress. The issue of recanting has been analyzed, however, with the call for the increase use of 810 peace bonds¹¹ within the 2002 policy, if the inferred outcome of the case will be a stay of proceedings.

The Crown Counsel policy prior to 2002 was perceived by government and law enforcement officials as not achieving a successful follow through in charges for domestic violence cases. The newly-instituted policy (2002) has attempted to address these issues. Overall, it appears that current BC pro-arrest/charge policies are working towards accomplishing their mandated task. This conclusion however does require future research and documentation, as well as a detailed look at changes implemented in 2002 through the new policy.

British Columbia's Crown Counsel Policy

British Columbia's Violence Against Women in Relationships (VAWIR)¹² policy deals with a subject that continues to challenge justice officials. The general mandate of the policy is that violence in relationships is criminal and it is essential to take necessary measures to protect those subject to such violence. This was not always the case;

¹¹ **810 (1)** Any person who fears on reasonable grounds that another person will commit a serious personal injury offence, as that expression is defined in section 752, may, with the consent of the Attorney General, lay an information before a provincial court judge, whether or not the person or persons in respect of whom it is feared that the offence will be committed are named.

811. A person bound by a recognizance under section 83.3, 810, 810.01, 810.1 or 810.2 who commits a breach of the recognizance is guilty of (a) an indictable offence and liable to imprisonment for a term not exceeding two years; or (b) an offence punishable on summary conviction. R.S., 1985, c. C-46, s. 811; 1993, c. 45, s. 11; 1994, c. 44, s. 82; 1997, c. 17, s. 10, c. 23, ss. 20, 27; 2001, c. 41, s. 23.

¹² The larger policy being referred to is the Attorney General's Violence Against Women in Relationships (VAWIR) policy originally enacted in 1983. Updated years for this policy include 1986, 1994 and 2000. This policy holds general guidelines for all areas of the criminal justice system with exception to the Judiciary, to follow regarding domestic violence incidents including the specific policies for the RCMP, VPD and Crown Counsel (The Judiciary have agreed to expedite trial dates, but are not subject to AG direction). Although these specific sections of the system may have their own more specific policy guidelines within each department/division/jurisdiction, all of these divisions must follow the overall mandates and guidelines set out in the VAWIR umbrella policy.

however, in the past, the response was often to view partner assault as a domestic or social problem that was best left alone, or handled by organizations or institutions outside of the law such as shelters and couple counseling, or something for the principals to sort out privately. Prior to the implementation of enforcement policies, the reluctance to criminalize did not help in reducing violence in relationships (VAWIR, 2000 as cited in the Report on Violence Against Women by the Ministry of the Attorney General, 2000). Consequently, over time, criminal justice officials have worked hard to implement policies that combat this issue of violence. The new policy passed in 2002 by then Attorney General Geoff Plant, echoes this, continuing to fully encompass a legal response to domestic violence situations. The next section of the thesis will present key aspects of the changes made to the Crown Counsel policy in 2002 to better understand the data that will be explored.

VAWIR Policy Comparison and Reform

A premise of the policy prior to the 2002 change, which is also strenuously voiced in the new policy, begins with an overall discussion that Crown Counsel does not act on behalf of the victim of a domestic crime, but rather represents a wider public interest in ending violence in relationships¹³. Both the prior policy and the new policy in 2002 promoted rigorous prosecution of the offender regardless of the victim's wishes. Thus, the responsibility to arrest and charge no longer rests with the victim but in the hands of Crown Counsel. (Debate around this contentious issue continues and is discussed in

¹³ Note: In British Columbia, there is a charge approval process. Like Quebec and New Brunswick, BC Crown Counsel reviews the facts of the case based on the gathering of information by police after arrest and decides whether to approve the laying of charges. In other provinces, police have the role of arrest and the laying of the charge on offenders of domestic violence. For a comparison between the general parts of the policies before and after the 2002 change, refer to the detailed table on page 27 of this thesis. (Brockman & Rose, 2001, pp. 69)

Chapter Four: Feminism and Convergence with the Law). Therefore, the new policy continues to attempt to strike an appropriate balance between the safety of the victim and rigorous prosecution of the alleged offender.

The 2002 policy states that the Crown should only proceed to trial if there is sufficient evidence to support a guilty conviction (Criminal Justice Branch, Ministry of the Attorney General, 2002); this was not the case in the previous policy. The 2002 policy continues to state that if the evidence in the case is not likely to produce a conviction or the victim is not willing to testify, Crown Counsel, can and should institute an 810 peace bond for the protection of the victim. This approach is based on research stating that a large number of cases proceeding to trial were ending in a stay of proceedings, thus rendering the courts with less ability to secure victim's protection (Criminal Justice Branch, Ministry of the Attorney General, 2002).

One major difference from the old to the 2002 revised policy is the strengthening of prosecutorial discretion. Discretion in law is always a concern in relation to societal problems such as domestic violence; and will be discussed in greater detail in the following chapters; nevertheless, still paramount in the new policy is the focus on the safety and protection of the victim.

The benefits of increased Crown Counsel discretion are outlined in the 2002 policy and discussion papers prepared by the Attorney General's office. The most important change that the Attorney General's office has implemented is in relation to victim reluctance in testifying and the impact this has on case outcomes which are directly linked to the reason behind increased powers of discretion. The policy states:

If the evidence in the case is not likely to produce a conviction, Crown Counsel can make other recommendations for the protection of the victim. Crown Counsel can consider the option of an 810 recognizance (peace bond) when there is sufficient evidence for it, even if there is not sufficient evidence for a criminal prosecution. (2002, p. 4)

In the policy prior to 2002 the use of 810 peace bonds was discussed; however, it was paramount to have sufficient evidence of possible re-offending, and the 810 peace bond would not be used as a disposition on its own. For example, it was emphasized to use a peace bond in accordance with other dispositions such as a guilty verdict. What has changed is the proposed use of 810 peace bonds as a disposition unto itself. Therefore, if Crown Counsel feels that a case will ultimately end in a stay of proceedings, rather than going to court for a determination, Counsel can now impose a peace bond in its place (Ministry of the Attorney General, 2002).

The 2002 policy remains similar in procedure to the old with regards to victim information, such that the Crown should still provide timely information to victims about all aspects of the case, especially developments that may affect the victim's safety (Ministry of the Attorney General, 2002). Also included is the section on bail which remains the same except for the inclusion of updated areas of sections of the Criminal Code. Some examples of these are always requesting a warrant for the arrest of the accused in spouse assault cases, and providing suggestions for conditions of release on bail aimed at protecting the victim. "Crown Counsel are also reminded to review the bail conditions when an accused is released by the police pending trial, and to take steps to amend them, if necessary, for the victims safety" (Ministry of the Attorney General, 2002, p. 6). This includes the recognized risk factors discussed later in this chapter.

What has been elaborated upon in the 2002 policy is the *reluctant witness* section. It has been given more emphasis and has been identified as one of the largest obstacles faced by Crown in prosecution: “this section includes a description of the type of influences that may be exerted on the victim and the factors that may contribute to a victim’s reluctance to testify” (Ministry of the Attorney General, 2002, p. 4). The 2002 policy also states that training programs are continuously being implemented to better educate Crown Counsel on the dynamics of an abusive relationship. If a witness has been subjected to threats or interference, then the policy requires that the matter be given over to the police and consequently this may result in the laying of separate criminal charges.

The 2002 policy is strengthened and differentiates from the previous policy by the use of the reference to section 718.2 of the Criminal Code which deals with aggravating factors for sentencing. Section 718.2 of the Criminal Code provides that “abuse of one’s spouse, common-law partner or child is an aggravating factor in sentencing” (Ministry of the Attorney General, 2002, p. 7). In the 2002 policy, there is discussion stating that victims have the opportunity to voice the impact the offence had upon them, as well as focusing on the wider context of the offence and its overall impact on all involved.

New Directions in Domestic Violence Policies

Key aspects of the 2002 policy are an incorporation of risk assessment tools and development of alternative measures for offenders in domestic violence relationships. The new policy provides for the use of alternative measures in low-risk cases. Risk assessment tools have been in use for a long time in other areas of criminal justice for example forensic psychiatric cases (Webster, Douglas, Eaves & Hart, 1997). Nevertheless, this is the first time that a domestic violence relationship policy establishes

such measures to allow alternative measures as deemed appropriate. The new policy states that:

The risk factors set out as follows should be carefully considered at this stage (minimal risk determined). Final alternative measures should not be given until Crown Counsel has received a report from a probation officer which will address all the circumstances of the offender and victim, including risks to safety. (Ministry of the Attorney General, 2002, p. 5)

Recognized risk factors outlined in the policy that may indicate for further instances of violence are: “a history of violence within or outside the relationship, including sex offences, a history of breach of court orders, recent threats of suicide, escalating violence, and substance abuse. Also, recent relationship problems, recent employment problems and the use or threatened use of weapons or death threats. Lastly included is the issue of extreme minimization or denial of the offence or other subsequent offences” (Ministry of the Attorney General, 2002, p. 5).

Overall, the new usage of risk assessment in domestic violence relationship policies has not been rigorously researched to determine the success or failure of such tools. It can be inferred that similar experiences will be had in relation to other areas of criminal justice that already have these tools in place. The Attorney General’s office states that the implementation of risk assessment is new and that it is intended to help screen cases into alternative measures programs. A main question that critics have put forth however is how many risk factors must an offender have to not qualify for alternative measures? As well, when comparing domestic violence cases it would seem that there would be continual cross over of certain factors, meaning that a majority of

cases would have at least one of the above facets, and does this then disqualify that offender from accessing an alternative to incarceration?

It is apparent by discussing the new 2002 policy and comparing it to the policy previously in place that many of the changes are beneficial and will hopefully reduce violence against women. The discussion of domestic violence policies is not complete however without a thorough presentation of the theoretical underpinnings that these policies are entrenched in. Domestic violence policies link to feminist engagement with the law on this issue, and would never have been instituted as they stand if it were not for the lobbying by the feminist anti-violence movement.

Table 1: Comparison of Pre- and Post-Policy Changes

Crown Counsel Domestic Violence Policy 2000	Crown Counsel Domestic Violence Policy 2002
Rigorous prosecution – no exceptions	Rigorous prosecution – only if can guarantee a guilty verdict
No Crown Counsel discretion	Increased Crown Counsel discretion
No instituting 810 peace bond as its own disposition	Instituting of 810 peace bond as its own disposition if guilty verdict unattainable
Lack of discussion on role of victim recanting on successful prosecution	Greater emphasis on victim reluctance as a hindrance to prosecution
Bail has focus on victims safety	Bail has similar focus on victim safety, upgraded sections of the Criminal Code included
Lack of training initiatives for Crown Counsel on intricacies of Domestic Violence	Increased training for Crown Counsel on intricacies on domestic violence
No discussion of section 718.2 – aggravated factors of offender and incident	Includes discussion of section 718.2 – aggravated factors and effect on incident especially victim
No risk assessment tools for qualifications of alternative measures	Newly-instituted risk assessment tools for alternative measures – list of factors
Brief attention to alterative measures focus on criminal sanctions e.g. jail time	Increased attention to usefulness of alternative measures rather than just use of criminal sanctions e.g. jail time

CHAPTER 4: THE CONVERGENCE OF FEMINIST THEORY AND THE LAW

Introduction

Entrenched in the history of the women's movement in Canada, violence against women has been transformed from a private trouble for individual women, into a public issue concerning all of society, including the CJS. This is largely due to feminist lobbying around criminal justice issues. This lobbying included many different women's perspectives from distinct and sometimes opposing positions, yet they shared a common goal. They sought to alter men's proprietary rights over women and they rallied and fought to expose how institutions such as the CJS had given and continue to give support to these rights (Faith, 1993; see also Smart, 1976). Feminists sought out legal solutions to challenge the platform that the law provided for men who abused women. It was hoped that these legal solutions would address institutional and systemic inequality, encouraging the changing of attitudes and behavior in the legal system and ultimately in society as a whole. The legal recognition of violence against women as a crime had symbolic importance for feminists. It emphasized that such violence was not just a personal individual problem, but also a social, political and economic one (Minaker, 2001).

What many feminists, primarily critical race feminist theorists, have now come to realize is that the struggle to bring recognition to the issue of domestic violence in the home has not been won on an equal level for all women. With the legal recognition of

the Battered Women's Syndrome defense (BWS) in 1990 (Comack, 1993), as well as the zero-tolerance/no-drop charge policy initiative in 1981 (Currie, 1998 as cited in Bonnycastle & Rigakos, 1998), women of race have had less representation and support in relation to feminist engagement with the system. As progressive and persuasive as the successes may appear in this social transformation on domestic violence issues, controversy still surrounds the continued engagement of women with the CJS in the name of feminism. The challenge remains for feminists to counteract policy through theory that will help all victims of domestic violence in a system with retribution at its core, and patriarchal relations a symbolic and ever-present entity.

This chapter will specifically focus on an analysis of liberal and radical feminist engagement with the law, and follow up with an account of critical race feminist theory in contextual relation to these aforementioned positions. What will be considered is the idea that policy presented through theoretical construction is an area that continually needs detailed analysis especially in regards to women of race and class. As well, whether the answer to the issue of domestic violence for all women lies in the engagement with the legal system. It is clear that the homogenization of violent experiences has shown to have a detrimental effect on women of marginalized race and class (Comaskey & McGillivray, 1999), therefore more focus needs to be placed on these women's experiences with violence in order to enable a more comprehensive approach to policy, which hopefully will lead to a decrease in this violence.

By examining the evolution of liberal, radical and critical race, feminist criminological theory as it relates to domestic violence it will become evident that the hurdles crossed through this movement have been achieved irrespective of the unique

position of racialized women. Gender, race and class are not mutually exclusive categories, one not being more important than the other, but multi-faceted in themselves. Therefore, policies with only traditional liberal and radical feminist theoretical underpinnings, such as the zero-tolerance policy may not fully encompass racialized women's experiences with domestic violence (Crenshaw, 1994). In addressing the above issue, this chapter will argue that there is no one group or discourse at fault here, rather that misconceptions have been prominent, unfortunately leading to detrimental policy effects that have often ignored poor, racialized women.

Feminist Convergence with the CJS through Policy

Developments over the past two decades surrounding violence against women have been well - documented. Unfortunately, based on this saturation of knowledge and documentation, male violence against women has been seen as a 'normalized' part of life (Currie, 1998). This has not always been the case, as the speed with which government and the CJS has responded to woman abuse through crime control is entrenched in the history of the 'battered women's movement' and the power of this lobbying. Historically, the law has portrayed women who remain in domestic violent relationships, and at times who are violent as a response, as doubly deviant for violating gender roles and breaking the law, or as being 'mad' (Comack, 1993). Based on precedent-setting cases such as *R. vs. Lavallee*¹⁴, indications of why women remained in violent relationships, as well as women's violence, was explained as a manifestation of the

¹⁴ The defendant in *R. v Lavallee* was a Winnipeg woman who was charged with murdering her husband. On numerous occasions, she had obtained medical treatment for injuries received at the hands of her husband. She eventually shot him in the back after he threatened to kill her if she did not kill him first. Lavallee was acquitted of murder charges; she is the first woman to be successful in using the battered woman syndrome defense in Canada (Comack, 1993).

psychological disorder “learned helplessness”¹⁵ or what came to be referred to as the Battered Woman’s Syndrome (BWS) defense. As a result, women all over Canada now had the opportunity to use BWS as a defense. As Walker (1973, p. 302) states:

Certainly, in practice women offenders have a higher chance of being dealt with as mentally abnormal....We cannot however exclude the possibility that psychiatrists’ diagnoses...are being influenced by the...proposition...that there is probably something abnormal about a woman delinquent. (as cited in Smart, 1976, p. 147)

As a result of advocating on the part of the feminist movement, the immediate action to end wife abuse was moving forward with the BWS defense set in place. The feminist movement, continued to be dissatisfied with the extent to which the law was working on behalf of the movement and for battered women regardless of the initial intended outcome. Although research began to surface that the BWS defense was not as beneficial as was expected (Comack, 1993), especially in cases involving women of race, liberal feminists and liberal feminist criminologists continued to produce theories that presented all women on the same plane in relation to how they experience violence and therefore how this violence should be counteracted. As a result, there was a push for a new policy initiative: the zero-tolerance policy.

Considered a “get tough” approach to domestic violence, a zero-tolerance policy was implemented nationally in 1981. Police have and continue to be mandated to arrest and the Crown to lay charges any time assault complaints were/are made, regardless of the presence or lack of corroborating evidence (Comack, Chopyk & Wood, 2000).

¹⁵ This theory, as discussed by Karlene Faith (1993), explains the means by which a woman becomes a “battered woman”, physically and emotionally unable to escape her life of abuse. Women must go through specific cycles or stages within the relationship to reach the level of battered woman, resulting in her ability to use this as a defense.

Discretion in determining how the case will be handled no longer lies in the hands of the victim or the police. Campbell (1993) explains that the official intent of the policy is to reinforce for both the victim and the offender that domestic violence is wrong, and will lead to prosecutions and further possible criminal sanctions with primary emphasis on preventing the abuse from being repeated. Historical evidence of feminist engagement with the law in relation to domestic violence and policies such as the zero-tolerance approach indicates that responses from the CJS, as Minaker (2001) discusses, have been “uni-dimensional and linear” (p. 102). A more multi-dimensional approach is necessary for an issue as complex as violence against women. However, caught between theoretical dispositions of feminism is the debate of what constitutes a multi-dimensional approach. Feminists do not negate the fact that some form of response is necessary, and that men who inflict violence on women need meaningful consequences. There is a divergence on what those consequences should be, however, and who should be in charge of delegating accountability.

Through liberal engagement with the criminal justice system, crime control has ultimately been the main response for this extremely complex social issue. Although crime control is a highly debatable response, it is important to acknowledge that policy makers have risen to the call from the anti-violence feminist movement to indicate publicly and socially that violence against women is wrong. Before presenting an alternative and more multi-lateral approach to combating violence against women, two main areas of feminism will be discussed, that of liberal feminist theory and radical feminism and how these two theories relate to the debate on feminist engagement with the law surrounding domestic violence policy.

Understanding Feminist Engagement with the CJS: Liberal and Radical Perspectives

Liberal and radical feminism have been noted as two of the most influential areas of feminist theory and thought regarding women and law (Chunn & Lacombe, 2000). As Chunn and Lacombe (2000) discuss, where liberal and radical feminism diverge “is in terms of how they explain women’s historical oppression and consequently what they advocate as the route to women’s liberation or (sex) equality” (p. 3). However, feminists’ demands for legal change are typically associated with liberal feminism, since at the center of liberal feminist theorizing is the assumption that the inequality women face directly stems from their denied access of equal rights and opportunities, including the equal opportunities to exercise these rights (Mandell, 2001). A major aspect of liberal feminism, as Chunn and Lacombe (2000) discuss is:

The overall assumption of sameness among individuals that rests on the (hu)man ability to reason and make rational choices. From a liberal perspective, there are no proven, innate differences between women and men, which means that women and men do not constitute gender classes with intrinsically opposed interests. (p. 4)

Liberal feminists argue that if the law is reformed to extend the same rights to women that have been afforded to men, to some extent more egalitarian gender relations will follow. Therefore the law is a crucial tool used by liberal feminists to establish formal legal equality rights that ultimately will allow women to be like men and visa versa; a set of rules per se that can be used through feminist-inspired reforms (Chunn & Lacombe, 2000).

Liberal feminist engagement with the law, through policy for domestic violence issues, can be seen as a process for securing change for all women. This is where liberal

and radical feminist activists and scholars diverge as many radical feminists have questioned whether the law as a tool can actually improve women's lives. In contrast, what liberal feminists have argued is that prior to proposing policy, which was/is used to increase public (media) awareness and increase police and court response to this issue, these areas were completely unresponsive to women caught in violent relationships (Dobash & Dobash, 1992). In defense of using law as a tool and creating a feminist - based policy, liberal feminists state that police who did not usually arrest men for assaulting their partners would continue to denigrate women for even seeking help from the law for protection (Dobash & Dobash, 1992, pp. 146). Ultimately, liberal feminists believed that by engaging with the law a strong, unequivocal message was going to be sent that violence against women was socially unacceptable, and would result in criminalization.

With regard to specific policies based on liberal feminist ideals (e.g. zero-tolerance policy), Dobash & Dobash (1992) suggest that a two-fold response was intended. One response was associated with providing assistance and protecting the victim, a response that can be stated as a universally-endorsed ideal within the whole of the battered women's movement. Second, is the response given by police, the courts and the entirety of the CJS - confronting this violence with the use of arrest. Although liberal feminists, 20 years after the initial implementation of the above policy, would argue that there has been enough of a success in helping to decrease violence against women that we should not abandon the idea that law can be a tool used by feminists to forge change in the lives of women.

Ursel (1998) claims that through such an engagement with the CJS, feminists have helped to initiate the creation of Family Violence Courts, the first created in Winnipeg, Manitoba in 1990. Additionally they have increased both police and CJS awareness of the issue as a whole, including how to better analyze and assess domestic violence situations. Ursel (1998) continues to discuss that for women with no other alternatives than to call the police, policies such as the zero-tolerance policy have successfully increased responses by police, along with increased calls to the police from women who previously would not have made such calls. Overall, Ursel (1998) presents a picture of “success”, discussing that engagement with the law must continue, if only to renegotiate the problems that still exist within the policies already created. Feminists such as Ursel (1998) in no way dispute winning the battle through law, only arguing that until power imbalances can be shifted socially, and other alternatives outside of calling the police can become stronger and more available, that law needs to remain an ally and a means for feminists lobbying through policy to help decrease violence against women.

Radical Feminism

For radical feminists, in contrast to liberal feminist ideology, patriarchal power cannot be reduced to imperfect social institutions; women are oppressed as women, by men. Radical feminists define patriarchy as a “sexual system of power in which the male possesses superior power and economic privilege” (Mandell, 2001, p. 32). From this perspective, women’s oppression lies in the sexual domination of men, upheld by law, state, and the church and as long as heterosexuality remains the principle of social organization, women will never be free from patriarchy (Currie, 1998). This position is associated with the voluntary withdrawal of women from associations with men—

“isolation of women from social institutions, relationships, roles and activities that are defined by males, operated by males, benefit males, and maintain male privilege” (Mandell, 2001, p. 32). As Currie (1998) argues, for radical feminists, the problem with legal reformers is that they fail to acknowledge men’s vested interest in controlling women’s procreative potential and as a result these reforms do not protect women from the coercion and physical violence men use to maintain their interests. Therefore, the sex inequality of women is the beginning point for radical feminist analysis. As Chunn and Lacombe (2000) discuss, radical feminists argue that women have been subordinate to men in all societies across time. They continue to state that specifically, men’s control over women’s sexuality through violence is a major tenet in the continuance of patriarchy and a patriarchal system. Catherine MacKinnon (1983, p. 515-16), a strong advocate for radical feminist ideology, and an activist in anti-law/legal feminist approach, states:

The molding, direction, and expression of sexuality organizes society into two sexes - women and men – which division underlies the totality of social relations.... As the organized expropriation of the work of some for the benefit of others defines a class – workers – the organized expropriation of the sexuality of some for the use of others defines sex, women. (as cited in Chunn & Lacombe, 2000, p. 5)

Radical feminism, as discussed by MacKinnon (1983), *is* feminism. Where liberal feminism sees sexism as a hurdle to overcome, a wrong to be put right, ‘true feminism’ sees maleness and the point of view dispersed by males as fundamental to male dominated power and power structures, such as the law (MacKinnon, 1983). Radical feminists argue that without tackling the deeply-embedded power imbalances, using law reform and policy such as those discussed above simply will not make concrete differences in the system, nor create any substantial changes for women in violent

relationships. Moreover, although liberal feminists have tried to make the legal system more effective for women, and changes have taken place, these changes have not touched the root of where the real issues lie according to radical feminists: deeply embedded in the structures of relations within society.

Snider (1994) contends that liberal feminist initiatives to re-write the law through feminist policy are an attempt to promote universalism and equality in law, to strengthen women's position in the eyes of the law and the state, and ultimately to lessen the victimization of women. Where liberal feminists would base policy creation is mainly by adding on new aspects, rather than questioning the position of law itself, and therefore women's position within that discourse. Snider (1990) believes that the CJS is not necessarily an ally to be relied upon; rather, her concerns are that by using it as a tool for changing women's lives, we might in turn delegate more power to it, having negative consequences in women's lives (as cited in Chan, 2001). Radical feminists argue against engagement with the law, specifically because there is a real and demonstrated concern that feminist ideals are leached out of feminist-driven policy. As a result, women's experiences with violence are trivialized and the law creates crime control responses, which focus on the perpetrator and the violent act that he commits. MacKinnon (1983) asks that while "this may be progressive in the liberal sense, but how is it empowering in the feminist sense" (p. 643).

Hence, what can result from a radical perspective on domestic violence policy is a presentation that the socially contextualized roles of women in a patriarchal society have been forgotten in liberal theory and liberal feminist policy. Radical feminists do not dismiss the need to challenge the structures of criminal law; however, in recent years

radical feminists such as MacKinnon (1983) have realized that there needs to be a partnership with the system from this perspective. Moreover, radical feminists can no longer be at arm's length from the system, but instead must attempt to interact with it, if only to rally governments to increase spending on women's shelters, safe houses and social programs to help combat domestic violence for both women and men.

This area of feminist theory calls for women's greater involvement in law reform so as to dismantle the oppressive power of the law and the power that law holds over women. Women need to "seize the power over law and other spheres of public and private life" to end women's subordination and destroy domination (Chan, 2001, p. 168). Emphasis needs to be placed on crime control strategies, and on the transfer of attention and funds to more productive and efficient ways of combating violence against women. An entire restructuring of social context of how gender is formed, transformed and subordinated in the eyes of law and the eyes of men is therefore needed. It is argued from this position as well that an increase in government monies for social support programs for men to reduce the re-offending, which in the interim assist women in these situations. Ultimately, radical feminists believe that there needs to be alternative structures to deal with violence against women outside the system of law (Chan, 2001). Unfortunately, with the dismantling of many alternatives such as shelters and programs, radical feminists have determined that if they are going to work within the system, it will be from a perspective that will promote radical change, enabling the voice of feminism back into policy.

Positive change, according to Smart (1995), is "always contingent and never absolute" (p. 154), meaning that the gains made for women in one sphere can be quickly

dissolved and diminished in another. Critical race feminists have long critiqued both liberal and radical feminists for similar reasons. Although change has been made through policy creation in regards to domestic violence, critical race feminists point out that with respect to the theoretical constructs themselves radical feminists do not envision a relationship with the state as a way to exact change, they still emphasize all women in the context of 'sex' or 'gender'. Liberal feminists, through engagement with the state, follow similar lines, presenting all women as a homogenized group who can come into contact with the law, whether as victims or offenders (Mandell, 2001). The detrimental effects this has on poor racialized women is explicitly outlined through a critical race feminist critique of the above two theories and practices.

From Theory to Practice: Critical Race Theory and the Zero-Tolerance Policy

Major strides have been made in the name of feminism regarding violence against women. What was once a private issue to be dealt with in the home has now become a political and public issue. Liberal feminists and radical feminists alike, although stemming from separate fronts, have come together in the recent past to critique what Koshan (1997, as discussed in Boyd, 1997, p. 91) terms the private/public dichotomy. Liberal feminists have engaged with the law, supporting policies and arguments from the perspective that all women are homogeneous or what Mandell (2001) considers white solipsism – thinking and speaking from a white, middle-class position. Radical feminists, on the other hand, have critiqued liberal feminism, arguing that there can be no equality when everything is equated through maleness and male domination. The structure of law then needs to be questioned for women living in violent relationships, as it is another site

of male dominance in which the line between private and public becomes blurred, and one more area where gender oppression becomes primary (Koshan, 1997).

Thus far then, it becomes apparent that much of the feminist literature on violence against women has assumed that patriarchy is the primary cause of women's oppression, and that all women can be considered the same, with no distinction between race and class, or that gender becomes the primary focal point of analysis in discussion of gendered power relations. What critical race feminists have been arguing against is the fact that women of race and class have lost position within feminist theorizing and feminist policy. Crenshaw (1994), a prominent critical race feminist states that:

(W)hite women don't get it. What they don't get is that these dimensions of women's lives are not mutually exclusive fields of domination, but inter-secting matrices of domination operating indivisibly. (p. 94)

Although this is a very critical statement of other areas of feminism, Koshan (1997) supports it, noting that when Aboriginal women write about violence, they often contend that violence against women was not prevalent in traditional communities. Rather, violence against Aboriginal women is described as resulting from colonization. The quote ultimately argues that liberal feminists have not incorporated this into research and resulting legal policy. Nahanee (1994) argues that the term domestic violence itself invokes images of state violence against women of race and class, specifically Aboriginal women and people in addition to male violence against women. Therefore, it can be

inferred that the extent of the damage perpetrated by the state against racialized¹⁶ women was not longitudinally conceptualized by liberal or radical feminists involved in the battered women's movement. Critical race feminists have confronted this, claiming that the over-criminalization and double charging¹⁷ of women of race and class is linked to colonialist assumptions embedded in the law. Critical race scholars as well as some socialist feminists such as Razack (2000), Monture-Angus (1999), Comack (1993), Campbell (1993), as well as organizations such as Researcher's and Academics of Color for Equality (R.A.C.E) continue to work to dispel the inherent racist ideologies entrenched in the law. Davis (2000), like a number of other feminist scholars, has raised questions about the potential differential impact of the BWS defense and mandatory arrest policies on men and women of color:

We need an analysis that furthers neither the conservative project of sequestering millions of men and women of color in accordance with contemporary dictates of globalized capital and its prison industrial complex, nor the equally conservative project of abandoning poor women of color to a continuum of violence that extends from sweatshops through to prisons, to shelters, and into bedrooms at home. How do we develop analysis and organizing strategies against violence against women that acknowledges the race of gender and the gender of race? (as cited in Coker, 2001, p. 808)

The limited discussion surrounding race and class has had a negative impact on theory development concerning these women's experiences with the CJS. As well, the lack of

¹⁶ As Chan and Mirchandani (2002) argue, the racialized 'other' shifts the study of 'race' to 'racialization'. "Racialization refers to the historical emergence of the idea of 'race' and its subsequent reproduction and application' (Miles, 1989, p. 76). This suggests that the criminalization of certain racialized groups within the Canadian context can be understood first, in light of the ways in which White; majority groups have been constructed as race-less, and second, within the context of historical relations between First Nations people". (Chan & Mirchandani, 2002, p. 13)

¹⁷ In many cases in which police are called to domestic violence incidents, women end up being charged as well as their abusers. Comack et al., (2000) found both the accused and the complainant (woman) were charged in 55% of the cases reported.

regard for how and why women of marginalized races experience violence at the hands of partners leads to the implementation of initiatives and policies that end up making domestic violence situations sometimes worse for them.

Critical race theorists argue that the majority of visible-minority women live their gender, race and class inclusively in their everyday lives. There is no separation by which they can deal with these independent of each other. Sharene Razack (2000) argues in *Gendered Racial Violence and Spacialized Justice: The Murder of Pamela George*, that it is not just an issue of patriarchal violence against women that must be considered, because the issue is much deeper for Aboriginal women:

While it is certainly patriarchy that produces men whose sense of identity is achieved through the brutalizing of women, that men's and the courts' capacity to dehumanize Pamela George [and Aboriginal women] derived from their understanding of her as the (gendered) racialized Other¹⁸ whose degradation confirmed their women identities as white. (Razack, 2000, p. 93)

Due to epidemic levels of violence present on reserves and in Aboriginal communities in Canada, victimization has become viewed as a part of Aboriginal culture¹⁹. Razack (2000) argues that much of what is perceived about Aboriginal peoples by society at large and by the justice system specifically reflects where Aboriginal women live, and the meanings of racialized spaces. The majority of explanations of Aboriginal women's violence and in turn violence inflicted on Aboriginal women ignore the contexts in which such violence takes place. Because many Aboriginal men and women have suffered

¹⁸ "An ideological dichotomy used to separate all individuals who are considered opposite of the white Western image. The 'other' is the ominous figure of strangeness or [outsider]". (Razack, 2000, p. 93)

¹⁹ "Community denial or definitions of intimate violence as a natural, cultural or inevitable hinders victims from defining violence as a problem that can be helped, and complicates system response". (Bonnycastle & Rigakos, 1998, p. 131)

colonization, their lives are plagued by violence and upheaval. Therefore, violence stemming from domestic violence situations and the deeper meaning of the uses of violence behind it must be explored within the larger framework of feminist criminological theories, before engagement with the law.

The perception of the majority of critical race feminists is that the battered women's movement in Canada neither included diversity nor attuned theory-driven policies to the needs of *all* women. One major problem noted is the 'problem of difference' that Daly (1997) outlines for feminist theory and therefore the reproduction of feminist knowledge. As Maria Lugones (1991, p.41) discusses:

White women have conceived to not notice us as a theoretical problem, which they label the problem of difference....But white women theorists seem to have worried more passionately about the harm the claim does to theorizing than about the harm the theorizing did to women of color. The problem of difference refers to feminist theories – these theories are the center of concern. (as cited in Daly, 1997, p. 28)

Therefore, rather than being dealt with appropriately by inclusion at the base level of theory, this 'problem of difference' has compounded into decades of constructed theory which just disengages racialized women's experiences.

This should not be interpreted as an add-on request by critical race feminists to pre-existing theory (Jhappan, 1996). As Stubbs & Tolmie (1995) put forth, in acknowledging the intersection of race with class, it is important to avoid approaches that construct the "women plus that of Aboriginal people" theory. What occurs with this approach is the denial of specific experiences of Aboriginal women, or suggests that "their disempowerment can be neatly segmented and separately attributed to the effects

of gender and race independently” (Stubbs & Tolmie, 1995, p. 129). Rather a renewed acknowledgment and reconstruction of homogenized and gender based theories is needed to include experiences and histories of poor racialized women to alter policy.

The problem remains that white women historically have been the unified spokeswomen for feminism and for issues related to feminism such as domestic violence. This has resulted in a feminism, which marginalizes racialized women. White essentialism, as discussed by Jhappan (1996), creates and interprets theory that lacks wholeness, broad analysis and the ‘voice of color’.

To imply, as many white feminists have done, that the gender oppression experienced by privileged White women is the same as gender oppression experienced by all women denies the reality of many women’s lives. It fragments the identities of women of color because it assigns the ways in which we do not fit the dominant model of gender to the non-gendered part of us, paradoxically diminishing the importance of gender oppression in our lives. (Jhappan, 1996, p. 26)

Therefore, there needs to be an increasing effort made by liberal and radical feminists, along with many others to seriously analyze historical and societal contexts of racialized women’s lives in order to create a strong theoretical bases for domestic violence policy, which includes *all* women’s experiences.

The characteristics attributed or associated with lower class and visible minority women within liberal and radical feminist theory constructions have ultimately rendered them as inferior. As a result, race has been theorized from the perspective of the “white eye”:

[W]hich views and defines the world according to its own terms, concepts of race and racism are often denied legitimacy, trivialized, contained (through redefinition and categorization), or erased in the dominant discourses of the system. (as cited in Chan & Mirchandani, 2002, p. 68)

Moreover, it has been predominantly white, middle and upper class women who have benefited from the BWS defense and the zero-tolerance policy. What critical race feminism attempts to correct is the lack of acknowledgment of how race, class and ethnicity intersect in battered women's lives creating harmful outcomes and increased barriers to leaving a violent partner. The gendered racialized 'other' must be better conceptualized within feminist theory before further engagement with the law takes place. The contexts of these women's lives are plagued with violence stemming from poverty and racism that have been passed down through generations: therefore, the current legal engagement works against historical meaning of Aboriginal women's violence. As well, Margaret Shaw (1995) discusses that it is important not to avoid or ignore Aboriginal women's violence or any women's violence for that matter, because then "explanations are left open to traditional pathologizing interpretations, which deny women agency" (as cited in Dobash & Dobash, 1992, p. 52-53). What will develop from this vantage point and from a critical race perspective generally are studies that give women of marginalized race and class a voice, enabling them to express their own personal experiences with violence - adding to the richness of theory surrounding this issue and therefore leading to more thorough policy initiatives that really do assist all women in domestic violence relationships.

Separation of Men and Women: Racialization of Domestic Violence

Arguably, critical race feminism has made strides for all women, arguing that policy, which is entrenched in theory, should stem from a perspective that gives marginalized women a voice. The largest critique that critical race feminism has of liberal and radical feminist theory is the exclusion of racialized women when discussing ways to combat issues such as violence against women. However important these aspects and individuals are to the development of theory-driven policy, there is another arena that is ignored moreso than racialized women: men. Although critical race feminism does address misconceptions, this theory can be criticized for not focusing more on the role of men in the struggle to end violence against women. Often, when men are considered within feminist theory, they are largely homogenized as a group, an issue that is constantly being argued as a fault of feminism. Men are not a homogeneous group, but “rather it is only particular groups of men in any society that will hold positions of public power and influence” (Segal, 1990, p. xi). In turn, Segal (1990) mentions that class and race, and the gender of men seem to be the major predictors of educational failure, crime and violence perpetrated against women.

It is important to bring men into the discussion of violence against women because without this inclusion, feminists, through law or not, can only win half the battle, for it is the socialization of men and the relationships between men and women that predict unfortunate results such as violence. What many critical race feminists such as Jhappan (1996) have discussed is that criticisms by critical race feminists of liberal and radical feminism have forged a constant battle between feminists themselves. Although it can be said that racialized women believed they could expect more from white women,

as an entity of women, we must not lose ourselves in this battle. Rather, theory must include the power imbalances between men as well, tackling how violence comes to be created, “for you cannot separate the problems of masculinity from society” (Segal, 1990, p. xxviii). Moreover, through the inclusion of men within the debate over changes in policies constructed for domestic violence, there still needs to be an acknowledgment that there are differences between men as well, as there are between women. Therefore, the previously-mentioned critiques of feminist theory from a critical race perspective still ring clear when concerning men.

In a culture, which constructs masculinity around ideas of dominance, social power and control over others, but then denies to some men any access to such prerogatives, it is not surprising that subordinated men may be more likely to resort to violence as the only form of power they can assert over others. (Segal, 1990, p. 256)

Furthermore, critical race feminists have outlined that from the perspective of Aboriginal women who face both racism and sexism, they do not always like the idea of being separated from their men. They may believe instead that the same issues, which have risen up to harm them, are as well harming Aboriginal men (Stubbs & Tolmie, 1995). Included in this critique of feminism is a specific look at radical feminism. Characterized as extreme, the complete drive for separation of men and women centered ideologies and practices have lead to an alienation of racialized women, for not only them, but for their men as well. Angela Davis (2002) makes similar arguments in relation to African American women and men. Stubbs & Tolmie (1995), confirms that some Aboriginal women are angered by these aspects of feminism, which exclude men of race. Although many men suffer at the hands of upper class men in public power, racialized

men suffer fundamental and sometimes insurmountable problems, which they believe has directly led to the violence that is inflicted on Aboriginal women.

As an endnote to this discussion, Dekeseredy (1991) presents that with specific relation to the inclusion of men into policy there are detailed aspects presented below which need to be considered. Smith (1990) has repeatedly shown that the highest rates of domestic violence are found among lower socioeconomic men. Policy thus needs to include discussions surrounding this issue and data that shows the differences of policy working for those who are employed and for those who are not. As an example, Michalowski (1983) indicates that the effects of policy on those who are unemployed or in low-wage jobs is quite different that for those who are working full-time. One example of the complexity of including men into the discussion of domestic violence policy is as Currie (1985, p. 19) states:

The failure to make the necessary connections between causes and consequences stifles the development of intelligent policies to prevent criminal violence, and burdens the criminal justice system with the impossible job of picking up the pieces after broader social policies have done their damage. (cited in Dekeseredy, 1991, p. 34)

Stemming from the inclusion of all men, particularly men of race and class are possible solutions in regards to understanding where men fit into the feminist struggle. These solutions examine how feminist theory and policy may possibly open a new arena for a movement away from crime control and towards a change in how male violence is dealt with and understood. Allowing the understanding of this genre, and possibly creating new discourse to emerge through feminism, a deeper analysis can be made of the role of law and the state in relation to these individuals' lives. Thus, it addresses the

appalling destructive consequences of violence between men, which can only add to a more rounded, comprehensive theory of feminisms, liberal, radical and critical race, combating and truly changing violence against women.

Summary of Feminist Theory and Research leading to Legal Policy

Critical race scholars have emphatically discussed the detrimental effects that improper theoretical constructions have on Aboriginal women and *all* women of race and class who are caught in the cyclical pattern of domestic violence. It is apparent that liberal feminists' over-reliance on the CJS has resulted in some misconceptions through their theory development, and radical feminists under-reliance on the CJS has lead to detrimental effects on not only all women, but men as well. However, as Jhappan (1996) states so succinctly:

There must be room for people to make mistakes and to learn from them, rather than be edged out of participating in anti-racist work altogether. This is destructive of the entire academic project, which is not and ought not to be only a forum for certain voices to the exclusion of others. (p. 55)

Throughout this discussion, it is clear that engagement with the law is not an easy task, and although engagement with the law has been successful in some areas with regard to domestic violence policy, it is important to what this really means in relation to stopping violence against women. The question lingers, however, whether it is discrepancies within feminist theory, feminist policy creation, or perhaps the law that are ultimately to blame for the devastating consequences upon forgotten women. However, as aforementioned, blame is not the desired path to take, as it only pits feminists against

each other, rather than focusing attention where it belongs, upon changing the lives of all women.

It is always easier to criticize than it is to offer solutions for change, and although critiques can be made in relation to liberal and radical feminism, one cannot dismiss the changes that they have made. Without liberal feminist engagement with the law through first wave feminism, the inclusion of women within any arena including theory would be far worse than we consider it now. As well, there is no question that issues such as violence against women have been removed from the privacy of the home and brought into the public arena as a political issue. Radical feminists on the other hand, have fought the damaging structures of the law and the implications of that upon women trying to escape domestic violence situations. By creating shelters, programs and providing support, radical feminists still fight to give strength to women and help stop the violence that is inflicted upon them.

Critical race feminism has made major strides in terms of inclusion and analysis of how the law, policy, as well as other feminist theories have affected poor racialized women and men. It is clear that other areas of feminist theory need to begin to encapsulate these people into their construction of violence and its effects to create an inclusive policy that will exact change in this area. The system of law that we have working in our society today can be used as a tool to end violence against women; however, feminists working in this area will not be able to access it beneficially if

they do not begin to create theory that provides analysis of how all women are affected by it. As Carol Smart (1989) states:

Feminism is the political theory and practice that struggles to free all women: women of color, working class women, poor women, disabled women, lesbians, old women – as well as white economically privileged heterosexual women. Anything less than this vision of total freedom is not feminism, but merely self-aggrandizement. (p. 49)

All women deserve the chance to be heard. Feminist theory and feminism in general need to move forward in the debate surrounding the treatment of all women, including Aboriginal women, within the justice system and within society as a whole. The debate over the term ‘women’ coined through feminist essentialism has ultimately created one of the most challenged topics in modern-day feminism. As Grant (1993, p. 34-35) so eloquently states:

The notion of a universal female experience is seen as necessary in order to ground feminism. Yet, the terms “woman,” “universal,” and “experience” mean different things to different groups of women. If [] women’s experiences are multiple, fractured, and diverse whose experiences count as “real”? To whom do we listen? How do we assert “truths”²⁰ about women? Generalizing from one point of view erases, ignores, or invalidates the experiences of others. But if no experience can be privileged, then the fear is that we will be led down a spiral to a completely relativistic, pluralistic, ever-expanding additive model of theories of knowledge. (cited in Mandell, 2001)

²⁰ As discussed by Judith Butler (1992), through a discussion of postmodern theory, “‘truth’ is an overall generalization about others, or specifically one group, for example ‘women’. What postmodernists state, is that theorists who make claims about ‘truth’ need to be more sensitive about what can and cannot be known to them as ‘truth’. As well, an understanding is necessary regarding the nature of these claims, especially when it comes to generalizing about others”. (pp. 3)

CHAPTER 5: RESULTS

Introduction

The focus of this chapter is on questions presented in Chapter Two: Methodology, in order to assess whether overall changes have been made to dispositions under the 2002 Crown Counsel policy. Specific focus will be given to whether there were any changes in the disposition of stay of proceedings and also whether there were any changes in the allocating of 810 peace bonds after the implementation of the new policy. Initially however, a brief demographic background will be given of each jurisdiction in order to add more context for the analysis. It must be noted that these demographics have had no bearing on the data gathered and analysis outcomes. Also included will be the age demographics for all adult offenders between 2000-2004 and a brief discussion of any noticeable trends in domestic violence.

General Demographic Overview²¹

The three municipalities chosen for analysis were Prince George, Richmond and Vancouver because of their ethnic diversity. Although the demographics that will be presented here cannot be compared between each municipality, they shed some light on the backgrounds of these three municipalities and provide a frame for the analyzed data. The census year chosen for this overview is 2001 and all information gathered was taken

²¹ The overall population sizes for Vancouver for the years 2000-2004 in order are 563,114, 569,473, 572,113, 576,226, and 579,716 respectively. The overall population sizes for Richmond for 2000-2004 are 168,280, 171,517, 172,386, 172,712, and 173,177 respectively. The overall population sizes for Prince George for the same analysis time frame are 77,018, 75,568, 76,288, 76,641 and 77,826.

from the BC Stats website (www.bcstats.ca, 2006). The specific municipality sizes for that year were 75,568 in Prince George, 171,517 in Richmond and 569,473 in Vancouver. Within the city of Prince George, the total Aboriginal population was 11,600 and the visible minority population was 5,555. The number of those employed in Prince George was 54,825 and the number listed as unemployed was 6,980. The gender of the population of Prince George was split quite equally at 49% female to 51% male, and 40% of the population over the age of twenty having graduated with a high school diploma.

The city of Richmond had a population of 171,517 in which Aboriginals comprised 1,180 of that population. The visible minority population however was much larger, listed at 96,320. The majority of this population is of Chinese descent. The number of inhabitants employed was 79,545 while 6,160 were unemployed. The male to female ratio was very similar to that of Prince George with a breakdown of 47% female and 53% male. The education level for the same age group was listed as 40% (the same as Prince George).

With a population of 569,473, Vancouver has an Aboriginal population comprising roughly 4% of that total, which was fairly close in comparison to Prince George despite the major difference in overall population sizes. The visible minority population was 267,085 while the majority listing their decent as Chinese. The number of individuals employed in Vancouver in 2001 was 281,940 while 25,325 are listed as unemployed. Rates of participation in post-secondary education show that 25% of Vancouverites had entered college and more than 25% had a bachelor's degree or higher. The percentage of those finishing high school was similar to that of the other two

municipalities, however because of the difference in overall population size no comparisons can be made.

The variable of age was made available within the JUSTIN data received, but not in a format that allowed for anything more than an overall analyzing of trends of all adults charged with domestic violence assaults between 2000-2004. In all the years considered, similar trends were evident. The aggregated data received for birth year only went up to 1987, therefore trends in age of male offenders were higher than what the literature usually indicates, which range between 15 and 40 years. The data showed that the majority of offenders in all four years, both male and female, ranged between 23 and 45 years. Most of the offenders were male which will be discussed in further detail later in this chapter. There were two interesting aspects to the data in the years 2000 and 2001. Two of the offenders charged with domestic violence assaults in 2001 were 72 years of age, one female and one male. Unfortunately, there is no way to tell if they were arrested at the same incident. As well, in 2000 it is interesting to note that about 23 of the offenders charged were over the age of 60 years, most of them male. What these data show is that domestic violence can affect anyone at any age.

Domestic Violence Data Results

The JUSTIN data received from the Attorney General's office was sent in aggregated format within a Microsoft® Excel file pivot table. All data were transformed into rates per 1000 in order to make any possible comparisons more clear. The main questions stated earlier in the methodology were considered using the following graphical representations.

Question 1

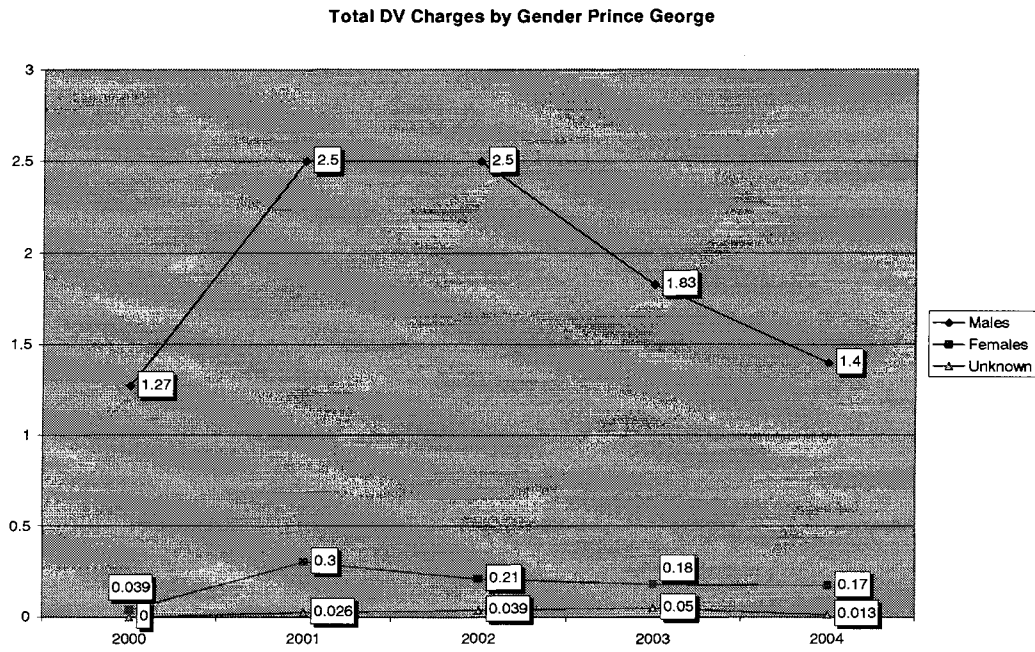
What is the gender of the individuals being charged with domestic violence assaults and if there is a difference pre and post 2002, what is it?

As research has indicated in the past, the great majority of domestic violence offenders are male, and this is consistent through all the municipalities analyzed. For the total domestic violence charges issued graphs, the indication is that female and unknown offenders charged remain fairly low across 2000-2004 for all municipalities. The implementation of the new policy in 2002 does not seem to have had a major effect on these two genders in relation to charge rates.

In analyzing total domestic violence charges for males there are similarities between Richmond and Vancouver with regard to the 2002 policy changes. With Prince George however, no similarities as far as the rates indicated are shown. In Prince George after the 2002 policy change, the number of male offenders charged dropped from a rate of 2.5/1000 to 1.83/1000. The rate continued to drop to 1.4/1000 charges through 2004. With regards to Richmond and Vancouver, Richmond shows a dramatic decrease in males charged from 2000-2001. This rate dropped from 4.46/1000 to .77/1000 respectively. Vancouver shows a less dramatic decrease in males being charged. The rates show a steady decline from 2000-2002. In 2000, it was 85/1000 dropping to .8/1000 in 2001 and dropping further to .75/1000 in 2002. The only comparison that can be drawn between these two municipalities is that in 2002 with the passing of the new

Crown Counsel policy, charges increased for male offenders. In Richmond it increased from .08/1000 to .69/1000 and Vancouver from .075/1000 to .999/1000²².

Figure 1: Total DV Charges by Gender Prince George



²² Note: For the purposes of these charts, DV will be used as an acronym for Domestic Violence.

Figure 2: Total DV Charges by Gender Richmond

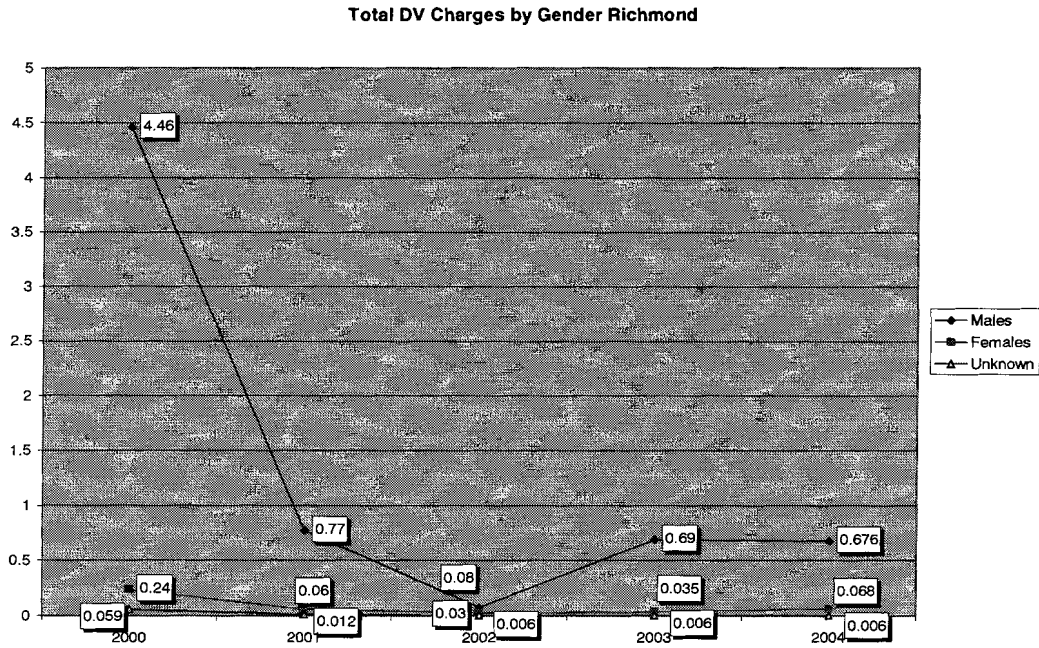
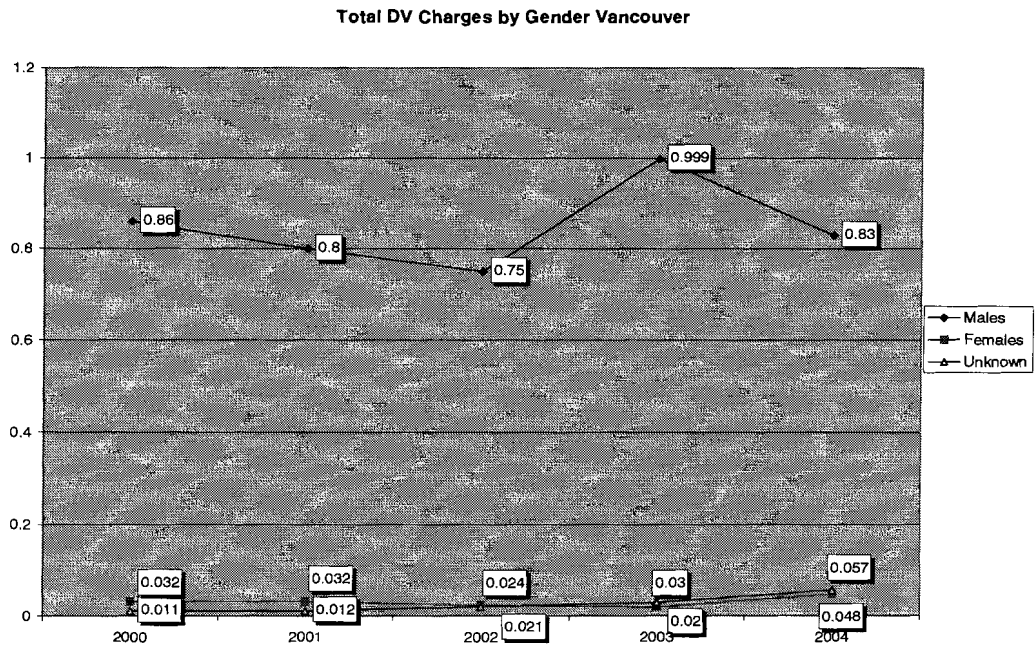


Figure 3: Total DV Charges by Gender Vancouver



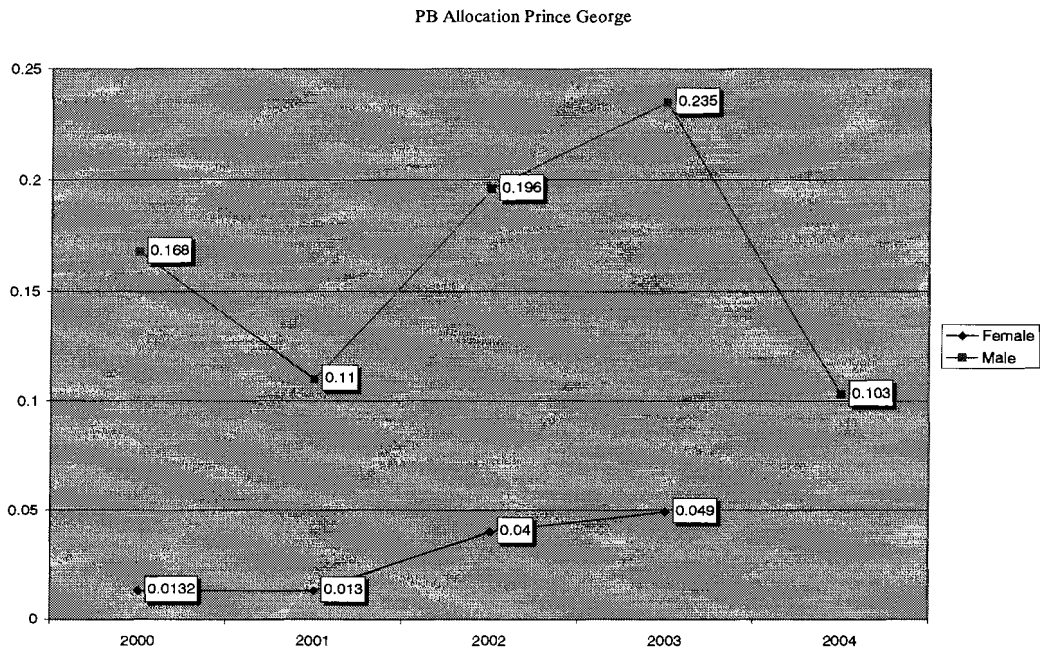
810 peace bond allocation was also graphed and analyzed for this data. The gender 'unknown' was left out for this part of the analysis as there were too few cases to

be considered valid. For all three municipalities, peace bond allocation for males charged with domestic violence assaults increased after the 2002 implementation of the new policy. It must be noted however that Prince George had already seen an increase after 2001 from .11/1000 to .196/1000 in 2002. An interesting occurrence happened in 2003 with the allocation of peace bonds to male offenders in Prince George. The rate decreased by a large scale from .235/1000 to .103/1000. In relation to Richmond and Vancouver, both cities were already seeing a decline in peace bonds issued to male offenders. It can be inferred that with the passing of the new policy in 2002, both municipalities followed the request to increase the utilization of peace bonds as a disposition or as an attachment to another disposition rendered. In Richmond, the number of males issued peace bonds increased from .11/1000 to .24/1000 in 2002-2003, and in Vancouver the rate increased from .16/1000 in 2002 to .2/1000 in 2003.

For females charged with a domestic violence incident the only municipality that saw an increase in the rate of peace bond allocation was Prince George. Similarly to the male cohort, the rates seemed to be on the rise since 2001 in any event, with the rate increasing from .013/1000 in 2001 to .04/1000 in 2002 and increasing again to .049/1000 in 2003. When considering the cities of Richmond and Vancouver, there are no notable changes regardless of the implementation of the new policy. Richmond is fairly level across the years analyzed, showing a decrease in rates per 1000 before the new policy initiative. From .012/1000 in 2000 to 0/1000 peace bonds issued in 2002 and then barely increasing after, going back to .012/1000 in 2003. Vancouver is similar as already stated to Richmond. Interestingly enough, after 2002, Vancouver shows a slight decrease in the

issuing of peace bonds to female offenders from .012/1000 in 2002 to .005 in 2003; the rates continue to be steady however across the years²³.

Figure 4: Peace Bond Allocation Prince George



²³ Note: For the purposes of the following charts, the acronym PB will be used in place of Peace Bond.

Figure 5: Peace Bond Allocation Richmond

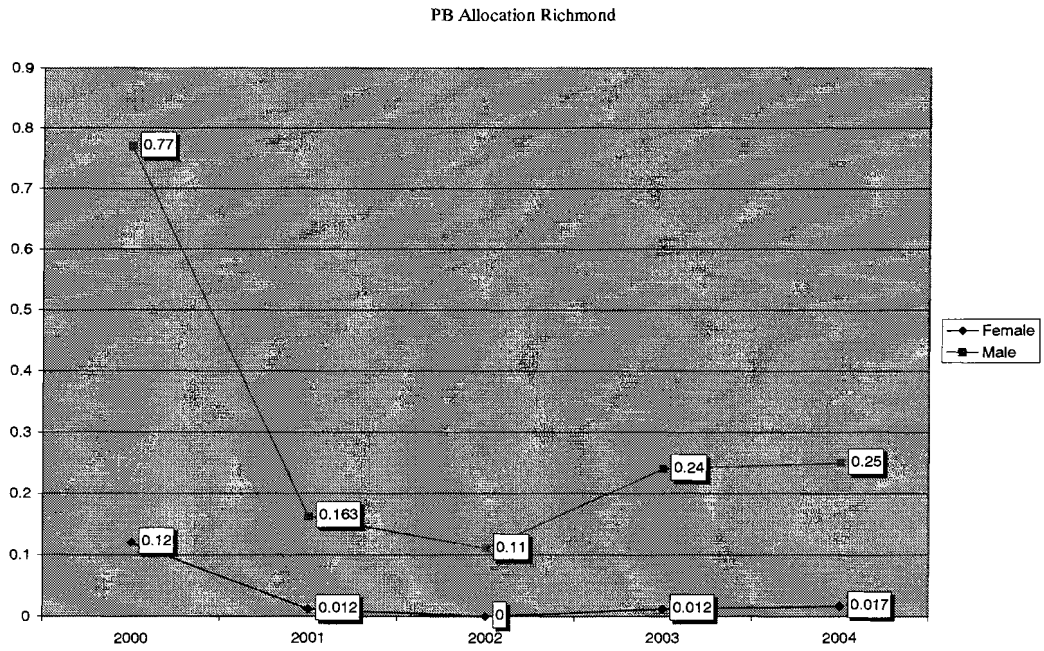
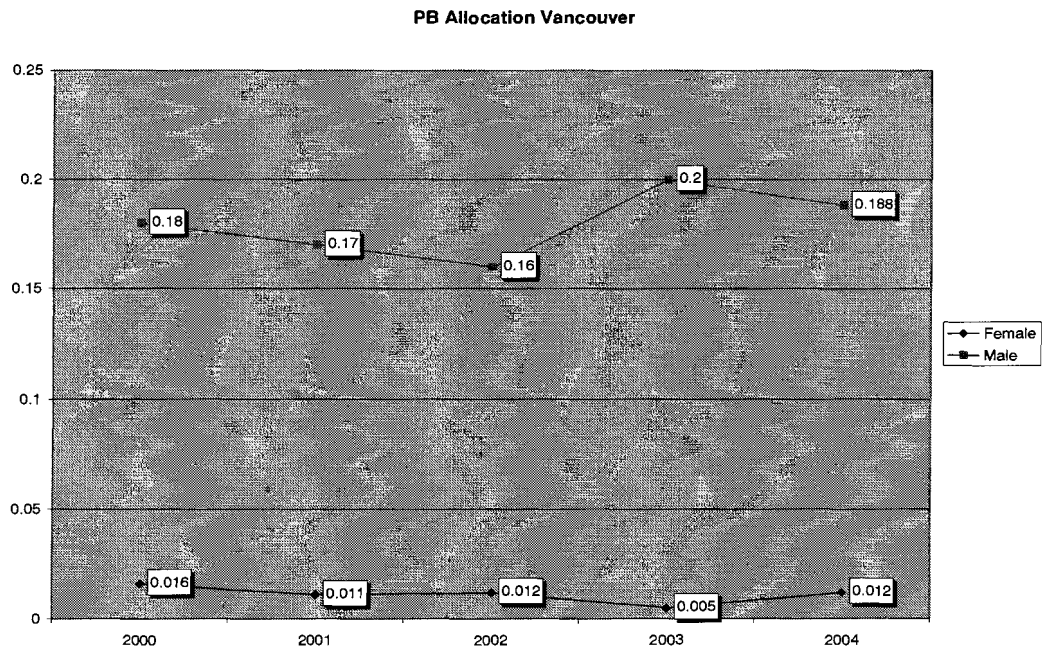


Figure 6: Peace Bond Allocation Vancouver



It should be noted that the majority of researchers in the area of law-enforcement and court policy usually mark an increase and noticeable changes in practices within a year following implementation. This is why a more detailed analysis must be done for this policy, analyzing at least five years of data after initiative placement. Resulting would be a more thorough analysis, and ultimately conclusions could be drawn as to whether positive change continues to be made due to the implementation of this policy mandate

Question 2

Has there been a decrease in the disposition of stay of proceedings in all municipalities explored, specifically after the implementation of the 2002 Crown Counsel policy?

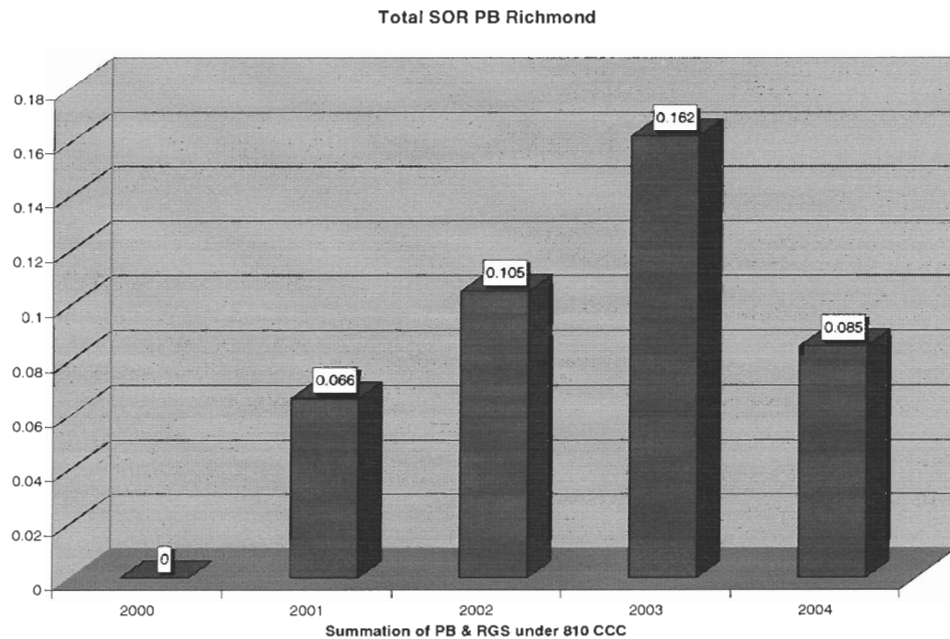
As discussed earlier the rationale for changing the Crown Counsel policy in 2002 was that the majority of domestic violence cases proceeding through the CJS were resulting in the disposition of ‘stay of proceedings’²⁴. This was ultimately leaving victims with no protection from their abusive partners. This analysis is directly linked to other questions posed by this research, for example, if the Crown Counsel foresaw a trial outcome that would end in a stay of proceedings did the allocation of peace bonds increase? If the data indicate that there has been a decrease in the disposition of stay of proceedings, will there also be an increase in the issuing of 810 peace bonds as a way of

²⁴ Sometime between 2002 and 2003, the way that court clerks recorded peace bonds changed. During that time any party issued a peace bond was coded as having a sentence code of RGS - Reasonable Grounds Satisfied. On the "Domestic Violence Guilty Sentence Charge Follow Through Trends" worksheet, the number of Peace Bonds decreases significantly in 2003 yet this trend is not reflected in the "Total Domestic Violence charges..." worksheet. This is not a contradiction but a reflection in the change of how court clerks were recording Peace Bond sentences. The number of RGS sentence types increases as the number of peace bonds decreases on the "Guilty Sentence..." worksheet. Please see appendix Figure #21 for numerical clarification and for a graphical layout of this clerical change.

protecting victims of domestic violence? Those results will be discussed in further detail in this chapter. The charts below however, do indicate that an increase in 810 peace bonds did occur after the 2002 policy change²⁵.

The following graphs indicate the changes in the total charges that resulted in a stay of proceedings and where a peace bond was also issued. The graphs that present the number of stay of proceedings without peace bonds issued can be located in the appendices of this thesis - figure number 23²⁶.

Figure 7: Total Stay of Proceedings with a Peace Bond Richmond



²⁵ The graphs presented under this question include a compilation of peace bond and reasonable grounds satisfied (RGS) dispositions when allocated. Further in the results section, analysis will be made of these trends separately based on the 'guilty-charge follow through trends' excel spreadsheet.

²⁶ Note: For the purposes of the following charts the acronym SORPB will be used in the place of stay of proceedings with a peace bond. RGS is the acronym used in place of reasonable grounds satisfied

Figure 8: Total Stay of Proceedings with a Peace Bond Prince George

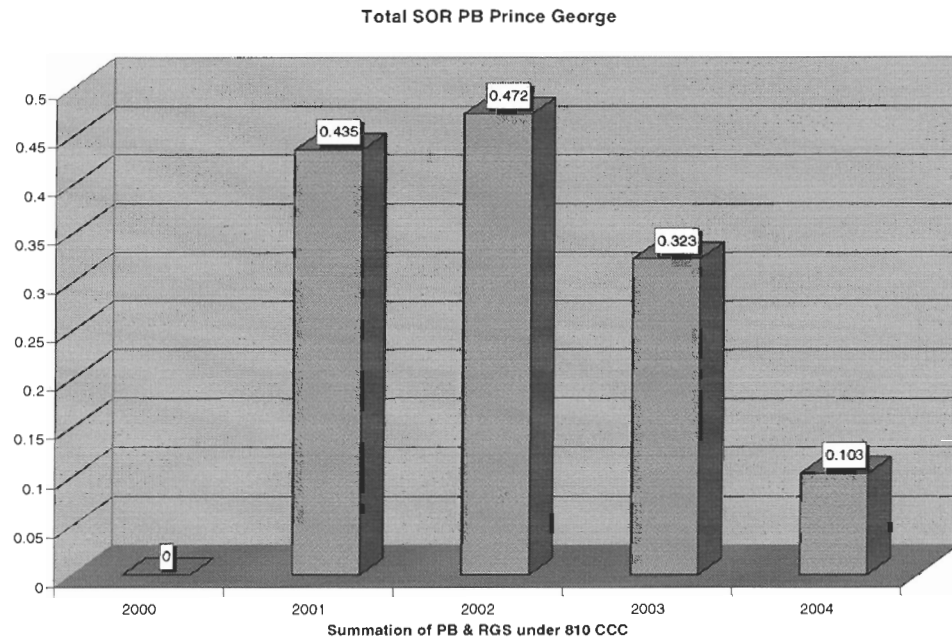
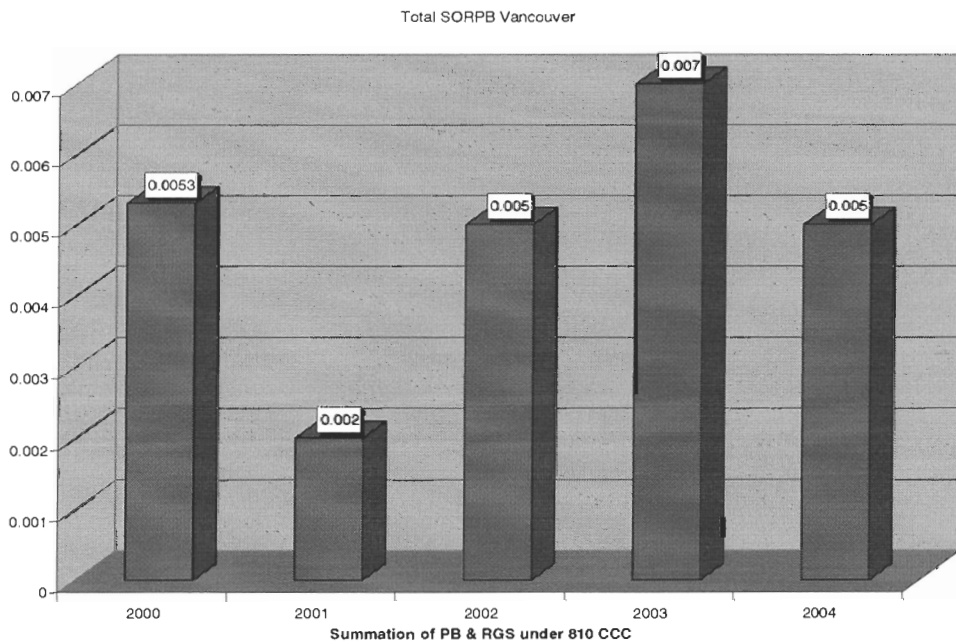


Figure 9: Total Stay of Proceedings with a Peace Bond Vancouver



The mandate of the new Crown Counsel policy passed in 2002 indicated that stays of proceedings were occurring at a high rate. Therefore discretion of Crown Counsel needed to be utilized more often so as to at least include with these dispositions an implementation of the 810 peace bond for the victim's protection. The above graphs demonstrate to us that all municipalities manifest is a high level of this disposition being activated. Once again as in the previous gender graphing, Prince George seems to stand alone in its changes with relation to Richmond and Vancouver being more similar in their determinations. With the implementation of the new policy in 2002, Prince George shows that stay of proceeding had reached its peak and thus inferentially dropped after the policy was passed, from the rate of .472/1000 in 2002 to .323/1000 in 2003. Stay of proceeding with the allocation of a peace bond continued to drop in Prince George in 2004 as shown at a rate of .103/1000.

When considering Richmond and Vancouver in relation to the rates of the disposition stay of proceeding with a peace bond, the graphs indicate that this disposition actually continued to rise from 2001, not 2002 when the policy was passed. What this demonstrates is that both the rates of stay of proceedings increased as well in turn did the issuing of peace bonds. In Richmond, the rate increased from 2001 at .066/1000 to .105/1000 in 2002 and then increased again in 2003 to a rate of .162/1000. Interesting to note that after 2003 stay of proceedings with a peace bond attached dropped to .085/1000. It is unfortunate that reasoning behind this decrease cannot be further analyzed with this data; the slight change in charge rate is not enough to infer why this occurred. On a similar note, Vancouver continues to show an increase in rates from 2001 and then dropping off again in 2004. The rates indicate that in 2001 there was a drop to .002/1000

from .0053/1000. Then in 2002, another increase to .005/1000 which can be inferred was caused by the implementation of the policy. In 2003 the rates increase again to .007/1000 and then drop to .005/1000 in 2004.

The graphs representing total stay of proceedings with no peace bond issued, which can be found in the appendices show that both Prince George and Vancouver are more similar in their trends than Richmond and Vancouver have been throughout the past two analyzed questions. For the years 2000-2001 Prince George's rates of stay of proceedings with no peace bond are level at .026/1000. In 2002 and 2003 however there is a dramatic drop off of this disposition to .013/1000 in the former year and to 0/1000 in the latter. This indicates that after the implementation of the 2002 policy. Prince George decreased the number of dispositions of stay of proceeding without also issuing a peace bond. What is surprising is that in 2004 the rate of this disposition without a peace bond being allocated along with it increases drastically to .030/1000 the highest rate shown for all years analyzed.

The city of Vancouver shows a very similar trend, decreasing from .0225/1000 in 2001 to .007/1000 in 2003. In 2004 however, again the graph indicates a drastic increase to .033/1000, the highest in all five years considered. Richmond on the other hand shows that from the year 2000, there is a continuous decrease until in 2004 where this disposition results in the rate of 0/1000. Unfortunately, with the limitations of this data there is no way to infer a determination as to why there would be such dramatic increases for the cities of Prince George and Vancouver in relation to this disposition and why Richmond would seem to be doing exactly what the policy mandate requests with regards to this specific disposition.

The charts indicating the total number of peace bonds or reasonable grounds satisfied issued for all three municipalities are separated into gender categories at the beginning of this chapter and analyzed there. The following will go more into detail regarding changes in peace bond allocation and whether there was an increase of this disposition after offenders – male, female and unknown – were found guilty of a domestic violence assault.

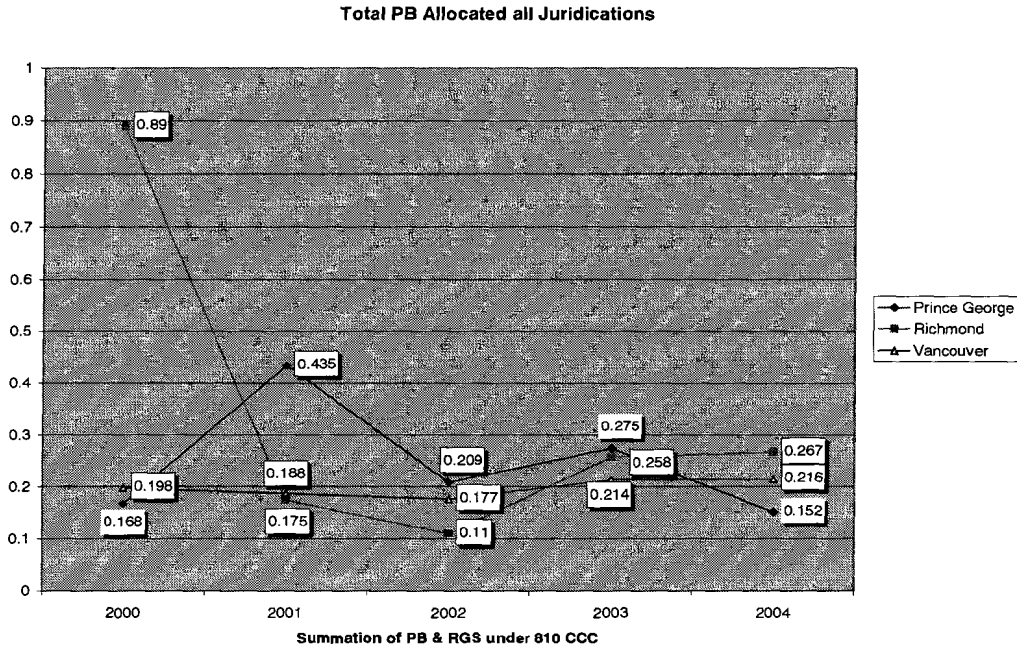
Question 3

Has there been an increase in 810 peace bonds issued after the 2002 policy changes were initiated?

The charts that follow indicate the total number of peace bonds allocated to all municipalities from 2000-2004 and allow a comparison between municipalities on whether there was any change in the issuing of a peace bonds. Also included graphically are the clerical changes made in the issuing of peace bonds. As mentioned above, in 2002 there was a change in how 810 peace bonds were categorized²⁷.

²⁷ For the purposes of these charts jurisdiction refers to the specific municipalities analyzed.

Figure 10: Total PB Allocated all Municipalities



After 2003, in all municipalities, the allocation of peace bonds either decreases or remains on a steady rate level into 2004 rather than continuing to increase. Although the section looking at stays of proceedings with a peace bond attached indicates an increase in the use of peace bonds, that aspect only shows that when the disposition of stay of proceeding was being determined a peace bond was added onto this disposition. Of course this is positive from the victim's perspective and we can infer that the victim's safety is being considered. This graph as well as the ones that follow show that the use of 810 peace bond as the policy intended them may not be in as high accordance in each of these municipalities as it would be hoped²⁸.

²⁸ Individual bar graphs for each jurisdiction and their allocation of total peace bond can be found in the appendices, it was thought that within the results it would be more beneficial and clear to present all the jurisdictions together for possible trend comparison rather than separately.

Figure 11: Peace Bond by Municipality (after found guilty)

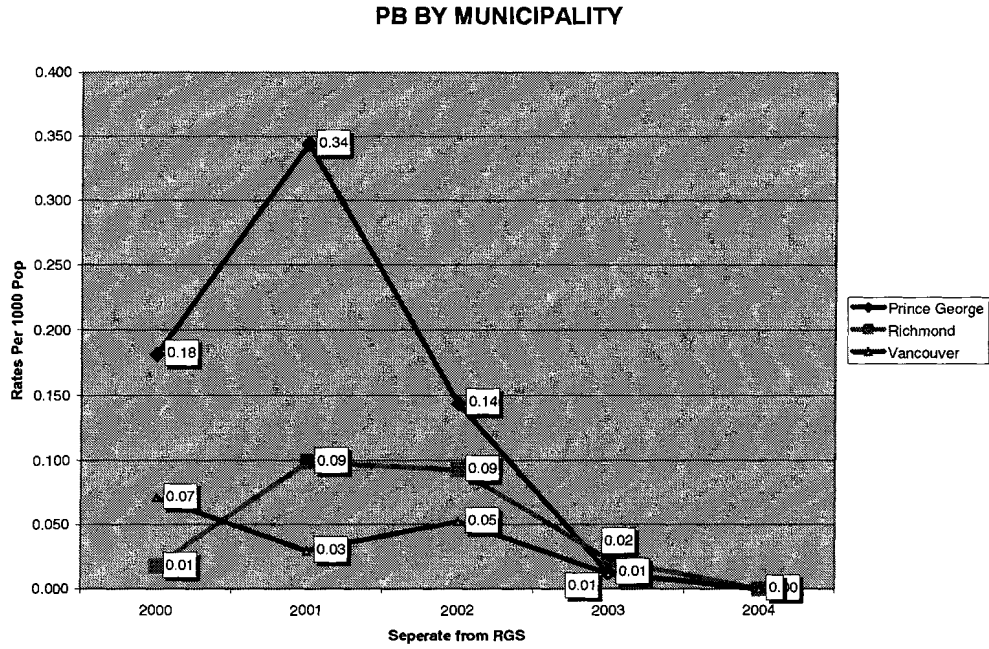
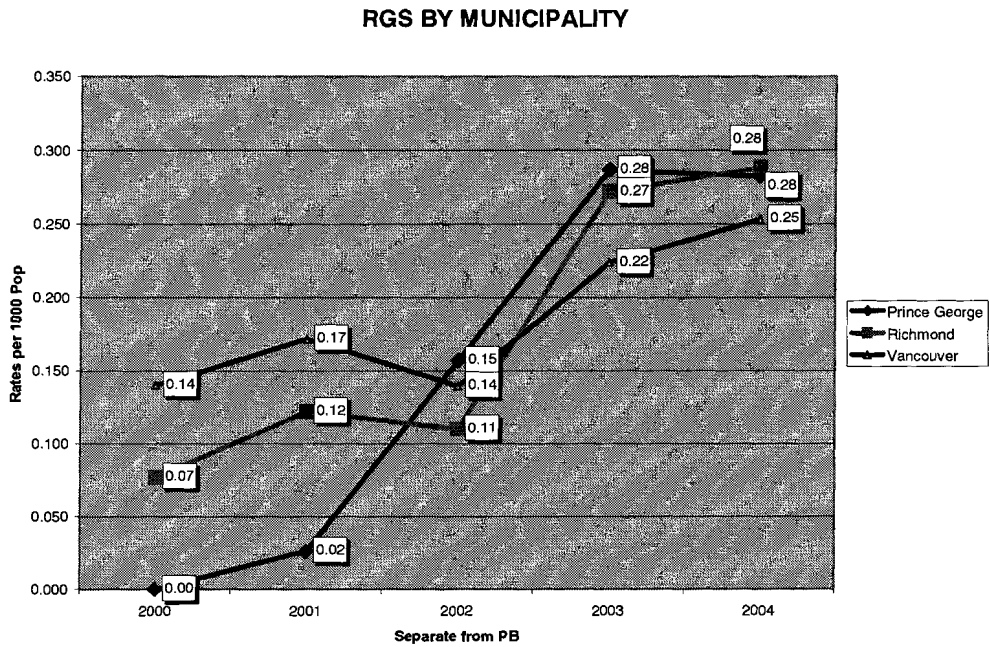


Figure 12: Reasonable Grounds Satisfied by Municipality (after found guilty)



The two graphs presented above are taken from the guilty charge-follow through spreadsheet and indicate the clerical change of 810 peace bond labelling in 2002. It is hard to infer through these two graphs whether there has been any clear increase in the use of peace bonds. Nevertheless, they do indicate on a slight level that after the change in terminology in 2002, 810 peace bond allocation did increase somewhat as can be seen in the reasonable grounds satisfied graphed rates. They differ from the peace bond allocation at the intersection point (2002) by numerical rates of a slightly higher level. These graphs therefore indicate that there was a change in 2002 and that peace bonds were phased out when reasonable grounds satisfied was brought in showing, as aforementioned, the small increase in reasonable grounds satisfied allocation.

Question 4

Once found guilty, have dispositions rendered changed with the passing of the new policy separate from stay of proceedings and the issuing of peace bonds?

This question is graphed and discussed in order to see if there was any change in dispositions rendered after an offender was found guilty. Whether these changes, if any, are a result of the policy change in 2002 can only be inferred, and are provided here if only to provide a more thorough background to the data gathered and the questions that were considered. The following graphs depict the dispositions of conditional sentences handed down, jail sentences, probation orders and fines that were issued. There are other orders provided within the dataset such as prohibitions to weapons and alcohol abstinence; however, the rates determined were not substantial enough to be considered for graphical analysis.

Figure 13: Conditional Sentences Issued

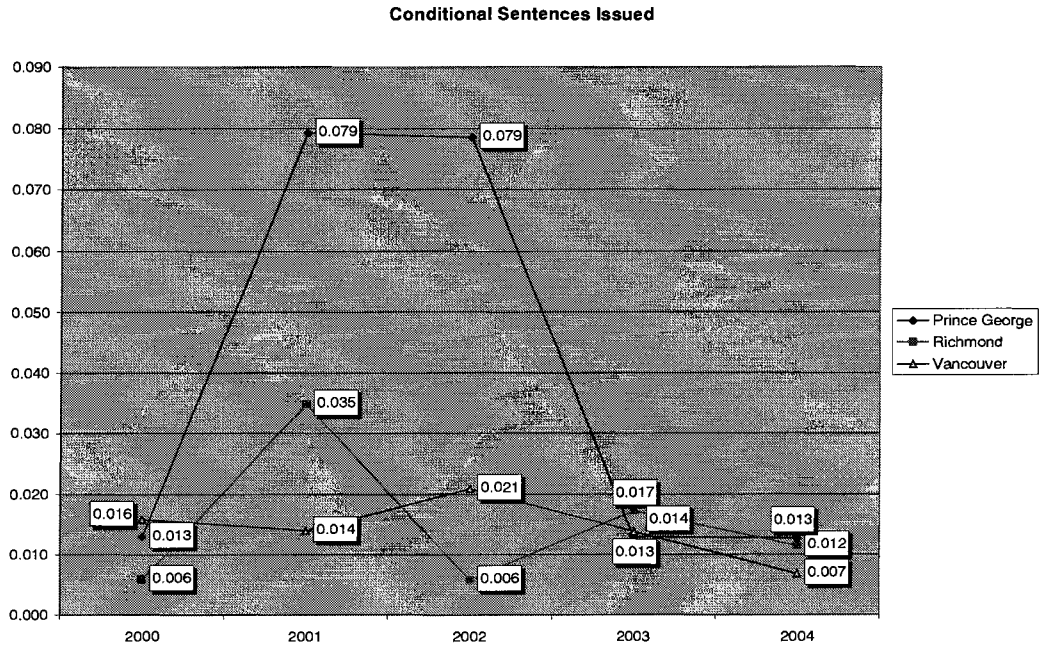


Figure 14: Jail Disposition all Municipalities

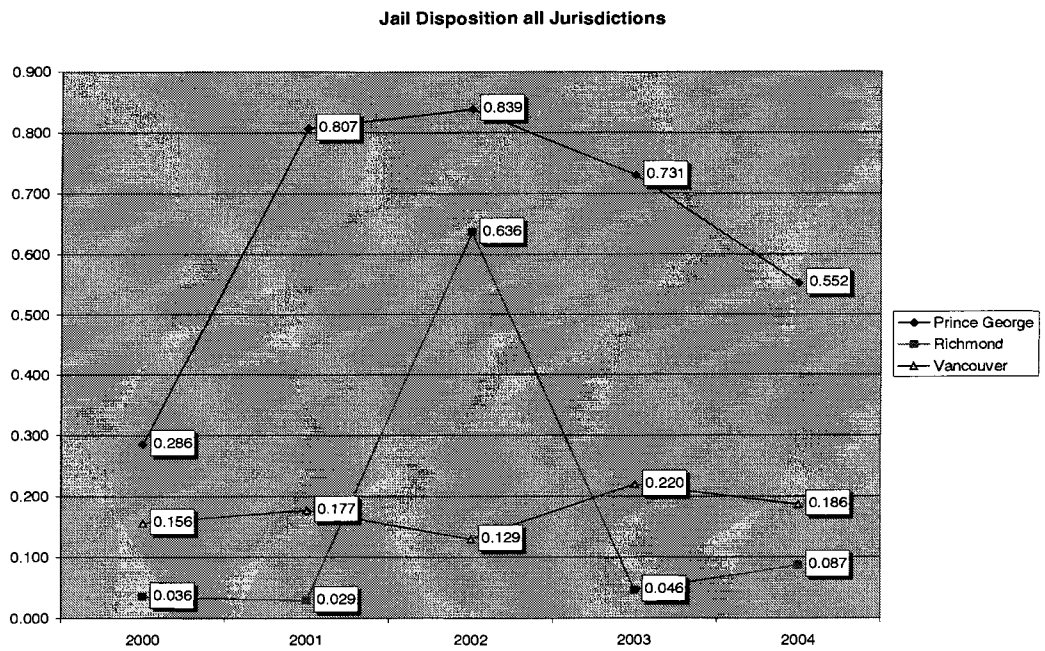


Figure 15: Total Probation Orders Allocated

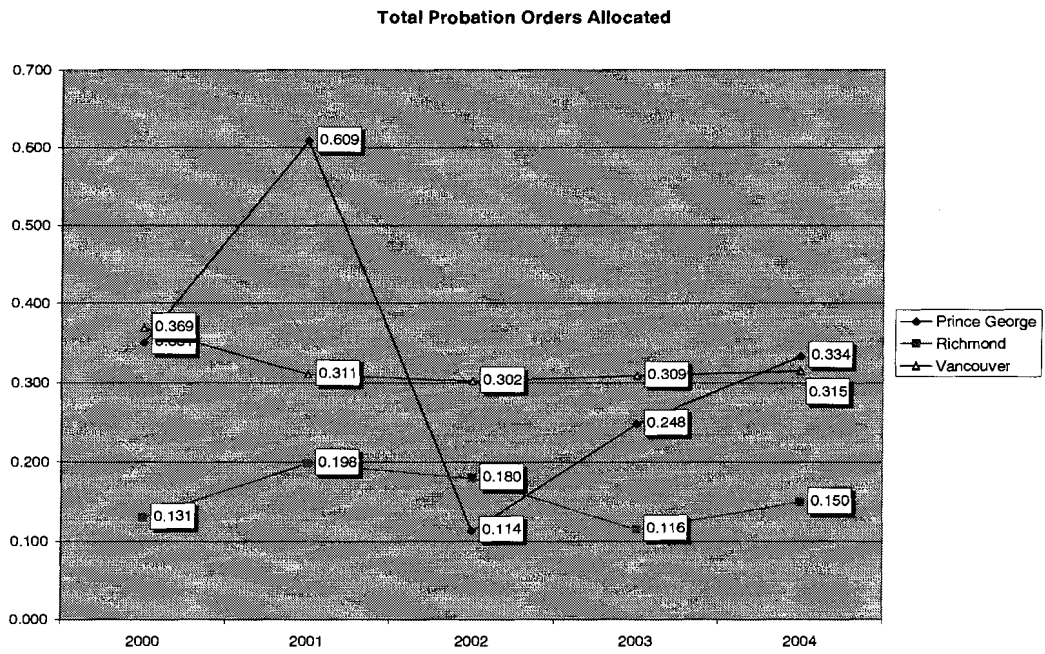
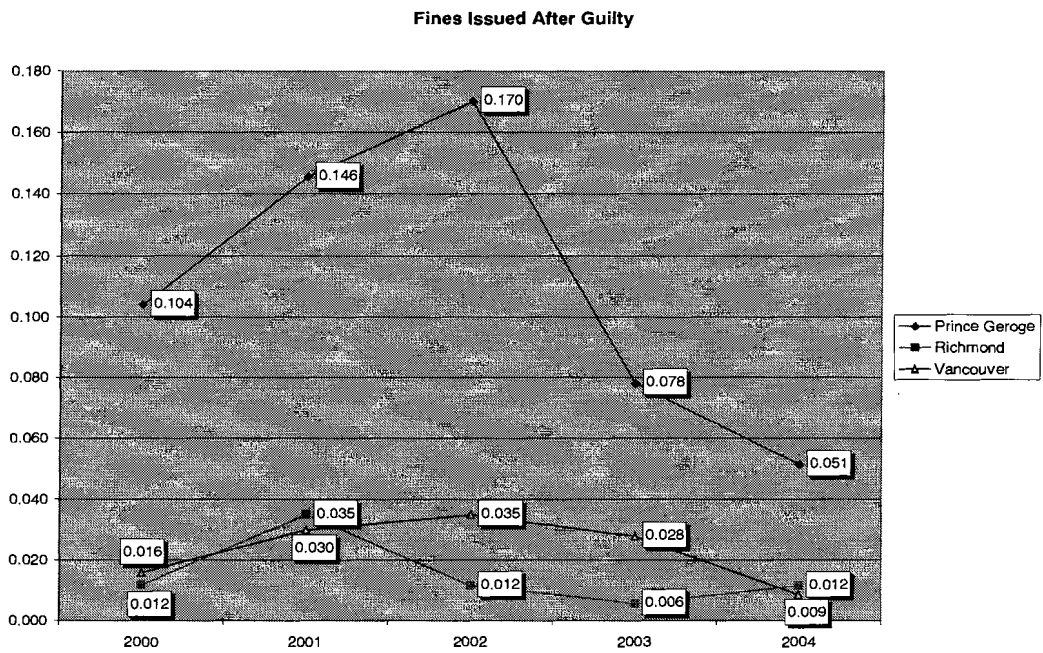


Figure 16: Fines Issued After Guilty



Conditional Sentences

The allocation for conditional sentences graphically shows no common trends between cities. Both Prince George and Vancouver show a drop in conditional sentences after 2002, Prince George indicating a substantial decline from .079/1000 issued to .013/1000 in 2003. Richmond shows a drop after 2001 from .035/1000 to .006/1000 in 2002 and then increases to a rate of .017/1000 in 2003.

Jail

After 2002, jail dispositions decreased for both Prince George and for Richmond. The rates show a drop from .636/1000 in 2002 to .044/1000 in 2003. For Prince George, there was a small decline in rates from .839/1000 to .731/1000 in 2003 and then dropping again to .552/1000 in 2004. With Vancouver, there was an increase after 2002 in jail time issued from .129/1000 to .220/1000 in 2003. No comparisons can be made between municipalities for this disposition. As stated before, it is unfortunate that the limited scope of the data cannot provide a more detailed account as to why these changes occurred. It can be inferred that the 2002 policy change had an impact on all areas of sentences handed down, however there is no way to say this with concrete certainty.

Probation Orders

Regarding probation orders issued after an offender was found guilty, Vancouver shows minimal changes across all years researched .334/1000 in 2000, .302/1000 in 2002 and then back to a rate of .334/1000 in 2004. Prince George's probation orders allocated does increase after 2002 to 2004 from .114/1000 to .334/1000 for the latter year. Once

again, this cannot directly be linked to the implementation of the 2002 policy. Richmond shows a similar trend to Vancouver staying fairly level over the years.

Fines

For all three municipalities, the issuing of fines decreased after 2002 with only Richmond showing a slight increase into 2004 from .006/1000 in 2003 to .012/1000 in 2004. Prince George again indicates a large decline from 2002 at a rate of .170/1000 to .078/1000 in 2003 and then dropping again to .051/1000 in 2004. As stated, Vancouver's fine distribution diminishes as well, however at a steadier rate .033/1000 in 2002 to .029/1000 in 2004. It is hopeful to project that with the passing of the 2002 policy, municipalities let up on fines as a disposition unto itself after the finding of guilt considering there may be little deterrence in behavior when only a financial punishment ensues. It is possible that the fine could have been accompanied by a probation orders or a peace bonds but this is only speculative. Nevertheless, there is no way to determine the impact of the policy on these particular dispositions.

Summary of Results

The foregoing sections have provided a brief insight into the changes that have been made specifically with regards to the dispositions of stay of proceedings and the use of 810 peace bonds. The implementation of the new Crown Counsel policy in 2002 seems to have had some impact, although slight on the above-discussed questions. The data presented graphically have also allowed for an analysis of other dispositions that have been handed down and opens up the door for further analysis and future research into this area. Although this analysis has been completely exploratory in scope, specific

areas of the new policy mandate were introduced and have begun to be followed. As stated above, however, an increase in the yearly analysis after a policy initiative is introduced is necessary for a more thorough understanding of any further successes this policy may have. The discussion chapter that follows will delve into more detail as to the possible impact of the 2002 Crown Counsel policy and will link previous literature, theory and discussion on the changes new policies can have on criminal incidents such as domestic violence and on other areas of domestic violence policy.

CHAPTER 6: DISCUSSION

Critical-Race Feminism

The literature review and data-gathering for this thesis have been entrenched in anti-violence feminist theory, specifically a critical-race feminist position. As discussed within chapter four, *Convergence of Feminist Theory and the Law*, Chapter Four, the root of domestic violence policy stems from the liberal feminist anti-violence movement, which brought domestic assault from a private issue to the forefront of social and legal systems across Canada. Regardless of the agreement as to which feminist stance is the most appropriate to analyze domestic violence policy, it has been determined for the purpose of this research that when streaming analysis through a critical-race perspective, all women and men and their experiences can be encompassed.

It is apparent from the literature and theory chapter that for Canadian research, there has been a focus on Aboriginal women's experiences over other cultures and races. This in no way diminishes other racialized women's experiences with domestic violence and the law; even so, critical-race literature across the board has pinpointed Aboriginal women and men as having higher rates of contact with the justice system for domestic violence incidents in Canada. Although there was an inability to gather ethnicity as a variable for this particular thesis as it was unavailable through the data system at hand, ethnicity is still extremely relevant and opens up the discussion for future research encapsulating this aspect of policy. The issue of double-charging as presented in chapter three is raised as an important one for future examination. This area remains a growing

issue when domestic violence policy is being implemented. Thus, further in-depth research needs to be conducted to see whether double-charging is occurring within the municipalities researched since it is being documented in other provinces and municipalities.

Overall, the decision to use a critical-race feminist position to conduct research on the Crown Counsel of British Columbia's domestic violence policy is defended by the premise that this policy affects all women and men. Therefore it is determined that other feminist positions are not as beneficial for women caught in domestic violence relationships because they do not include a perspective that includes all women and men's experiences with such a deep-seated problem as domestic violence.

Demographics

The demographic profile through the data gathered is rather slim, and does not present two variables, which have been documented to play a part in many domestic violence situations. Ethnicity of offenders is not dependent on whether a domestic violence situation occurs; however, national and cross-national data continue to indicate that a large majority of offenders coming into contact with the legal system for domestic assault are from a minority background (Coker, 2001). As discussed above with relation to the theoretical model used throughout this thesis, ethnicity is a paramount variable to consider when analyzing whether domestic violence policies are reaching and positively affecting those they impact most. Therefore, with regards to future research this variable needs to be considered in any form of evaluation of domestic violence policy, specifically when considering municipalities that have lower rates of minority inhabitants, but a high rate of their conflict with the law because of domestic incidents.

The other important variable not included in the data retrieved is the employment status of offender. Although the demographic background of the municipalities researched is included in the Results, (Chapter Five), this is only an overall perspective of employment and unemployment rates for each area, not for the specific offenders charged with domestic violence assaults. Research indicates, as discussed in chapter three, that employment status of an offender plays an important role in whether domestic violence policies are successful with that particular offender. This research shows that the policy is more likely to be successful if the offender is employed with a steady job and therefore has more to lose with a possible disposition of jail time or even a permanent criminal record. Therefore, future research in the area of domestic violence policy evaluation, exploratory or beyond needs to include this variable for more substantial analysis on policy successful.

Data Result Outcomes – Stay of Proceedings & Peace Bonds

The purpose of this exploratory analysis was to determine overall whether there has been a decrease in the disposition of stay of proceedings and also whether the use of 810 peace bonds has increased – two tenets of the new Crown Counsel policy as a result in the change in domestic violence policy in 2002. For all three municipalities, peace bond allocation for males shows an increase after 2002. While this does not necessarily remain consistent, it does indicate along with other research done in the area, that there are usually changes in behavior and data immediately following policy implementation. This is precisely why it has been argued that at least a five-year period post-policy analysis normally needs to be conducted. For the purposes of this research, the objective was to briefly explore pre to post policy changes to determine whether there have

immediately been any. As an overall outcome, there can be no conclusive determinations made to whether the 2002 policy change had a long term effect on peace bond allocation; the changes can only be inferred based on the policy implementation. Although the data indicate that there was an immediate increase, this trend does not continue for all municipalities considered and therefore further research is necessary.

For females, in relation to peace bond allocation, there was no notable change regardless of policy implementation in 2002, which remains similar to their overall levels of conflict with the system for domestic assault charges. This may be because the majority of females arrested for domestic assaults did not show up on the guilty charge-follow through trends spreadsheet, which is a possible indication that females do not pose as much a threat to their partners as male offenders do post arrest. Original research for this thesis did attempt to include data that depicted the gender of offender upon arrest. These data available through Vancouver Police's PRIME²⁹ system, were inaccessible at the time. This issue is important in relation to the discussed double-charging trends that are appearing in other provinces across Canada and would shed light on whether it was a similar trend in British Columbia as well. Another area of future research relates to female offenders and peace bond allocation. The question is whether Crown Counsel considered them more often for the alternative measures program and how the new checklist implemented affected this opportunity. This aspect needs to be considered in further research to determine why many of the women charged did not end up with a guilty plea and in turn what the consequences were for their role in the domestic incident.

²⁹ PRIME is the report management system utilized by the Vancouver Police Department.

The data researched have confirmed statements made by researchers and especially the Attorney General prior to 2002, showing that there was a high level of the disposition of stay of proceedings. The question posed on this was whether the policy change had an impact on this disposition level. What is interesting in how the data were gathered is that the JUSTIN system categorizes stay of proceedings with the allocation of peace bonds attached to it. Therefore, although we see an increase in the disposition of stay of proceedings in two of the three municipalities, this indicates that there was also an increase in the issuing of 810 peace bonds. Although this is not necessarily what the policy makers intended directly – the increase in this particular disposition - what they did intend was the further protection of victims and this may be being accomplished with the increase in the use of peace bonds, regardless of how small. Moreover, this result continues to be indicated through the stay of proceeding with no peace bond graph indicating that this disposition on its own did actually decrease. Thus this appears to support what policy officials wanted, again the further protection of victims. The one aspect of the data that is in opposition to the previous statements is that in 2004 both municipalities of Richmond and Vancouver show a sharp increase in stay of proceeding with no peace bond. There is no way to gauge concretely why this occurred; however, it is hoped that this did not occur because of a rejection of the policy and the thought that its long term goals were unattainable. Once again, further in-depth research is necessary and possibly longitudinal research in this area to depict why such drastic changes may have occurred.

Victim recanting as a phenomenon forms a large part of the Crown Counsel literature discussion and with the data presented it can only be inferred that even after the

policy implementation in 2002, this is still present. The data present that the disposition of stay of proceedings did not decrease even after the policy change. The positive aspect of this in relation to victim's is that Crown Counsel staff, with their newly increased discretion, had the foresight to include a peace bond for more protection. These aspects of victim recanting need to be explored in more thorough detail.

The issue of Crown discretion is a contentious topic and plays a key role in the above questions. Research has focused negatively on law-enforcement official discretion in the past, ergo the introduction of zero-tolerance policies. With the re-introduction of discretion for the Crown further research needs to be undertaken on its role in the determinations of domestic incident outcomes and the effect this discretion has on the victims of domestic violence. Feminist and policy researchers alike have suggested that discretion may only have a negative impact on victims of domestic violence; however, this exploratory analysis cannot confirm or support this contention. A more thorough research analysis must be conducted to be able to determine if this is actually the case.

Other Dispositions

Although the changes in the other dispositions handed down cannot be directly attributed to the 2002 Crown Counsel policy, they are still interesting to analyze in relation to domestic assault incidents. Although there were four other dispositions analyzed, this discussion will focus particularly on the disposition that is most often considered - jail time dispensed. It is often assumed by the public that when individuals are found guilty of a crime, domestic in nature or not, that jail time will ensue. This however is not the case in two of the municipalities researched - Richmond and Prince George. After 2002, those offenders receiving a jail sentence actually dropped. The

Crown counsel policy does not have a section that is allocated to this disposition alone and therefore does not indicate whether there were any expectations in the area of jail time as a result of committing a domestic violence offence. Studies have shown that jail does not necessarily prevent future attacks of violence (Bonnycastle & Rigakos, 1998); however, it would still be interesting to investigate why this disposition may be underutilized or what is being utilized in its place.

The lower levels of jail time handed down to offenders in these two municipalities cannot, unfortunately, be related to other dispositions, for example conditional sentences or probation orders; these data do not allow that. Therefore, it cannot be speculated as to why offenders are not receiving jail as a sentence and also why the overall issuing of a jail sentence is decreasing in two of the municipalities analyzed. What is Crown Counsel using besides the issuing of 810 peace bonds, to secure the continued safety of the victims of this crime? Further, another question is whether the decrease in the use of jail is because there has been an increase in stay of proceedings as presented or whether these offenders are being diverted to the alternative measures programs that were discussed in the Policy Environment, Chapter Three.

Alternative Measures

Any alternative measures programs³⁰ presented in the literature review chapter, are only supposed to be used by offenders deemed at low risk to re-offend and whose actions are not indicated as problematic on the newly devised risk factor check-list. Risk assessment tools and checklists have been in use in other areas within criminal justice and

³⁰ Alternate measures refers to diversion outside of the CJS, instead of charges being filed or instead of prosecution, for example, charge stayed upon completion of anger management program.

psychiatric patient settings for a long time; however, they are a new device that have been instituted into domestic violence policy. The data used for this research do not show any indications of whether offenders were diverted to alternative measures programs and as well do not indicate if risk assessment tools were used for any of the determined dispositions. A separate aspect of policy evaluation would need to be conducted to determine how Crown Counsel is going about implementing the use of these risk assessment tools. Also an analysis of cases funneled into alternative measures programs would be useful.

There is limited discussion throughout the thesis on the area of risk assessment tools because research with specific regards to this policy lacked any clarification on what tools were or are being used. Although an actuarial instrument called the Spousal Assault Risk Assessment (SARA) Guide is available and has been used in forensic health criminal cases (Webster, Douglas, Eaves & Hart, 1997b), more research is necessary to figure out if this set of 20 risk factors is being drawn on by Crown Counsel. An interesting aspect for future research would be to determine if there are any differences between the individuals who are accessing alternative measures based on risk assessment, for example, differences in the genders of offenders. It would seem fitting, however, that because research has shown that female offenders of domestic violence are much less likely to re-offend that they would be more likely to be able to access alternative measure programs instead of spending time in jail or receiving some other form of disposition. As discussed above, the allocation of peace bonds to female offenders is fairly low and does not change much over the five years researched regardless of policy change. This raises the question as to what outcomes female offenders are receiving if it is not a stay of

proceeding or peace bond allocation? Is it possible that female offenders are being diverted to alternative measure programs? Further research is necessary to determine how these alternative programs are being used and how risk assessment tools are used to make allocations in appropriate cases of domestic violence.

Other Future Research in Domestic Violence Policy

In 2002, only one aspect of an umbrella domestic violence policy in British Columbia was changed the Crown Counsel policy. The major question that arises from this is whether it is really possible to change only one part of a larger policy³¹ and have it be successful? With a system that is as intertwined as the Canadian Criminal Justice System, is it possible to give only some officials discretion without providing it to others as well. Also, what long-term outcomes does this increased discretion have for domestic violence policy in general and for the relationships impacted by it in specific? These are only a few of the questions that have been determined based on this exploratory analysis of the Crown Counsel policy of British Columbia. Cross-national research has indicated that it is not possible to be successful in implementing changes to only one part of a larger policy (Lockyer, 2005). Statements have been made that all relevant actors need to be on board to support a new policy.

With the initial inception of the VAWIR policy in 1983, it was shown that police officers were sceptical whether this policy would really do anything to reduce the number

³¹ The larger policy referred to is the Attorney General's Violence Against Women in Relationships (VAWIR) policy originally enacted in 1983, updated years include 1986, 1994 and 2000. This policy holds general guidelines for all areas of the criminal justice system to follow regarding domestic violence incidents for the RCMP, VPD and Crown Counsel (The Judiciary have agreed to expedite trial dates, but are not subject to AG direction). Although these areas of the CJS may have their own more specific policy guidelines within each department/division/jurisdiction, all of these divisions must follow the overall mandates and guidelines set out in the VAWIR umbrella policy.

of domestic violence incidents to which they responded. The fact that discretion was taken away from them as a tool in these instances seemed detrimental to the handling of those coming into conflict with the law for domestic violence assault. This discretion however is one of the reasons that anti-violence feminists called for a stronger response to domestic violence from the legal system. This research appeared to indicate that police discretion was leading to increases in minority offender arrests resulting in overall discrepancies with arrest and charge rates. Research and data have indicated throughout this thesis that, with the inception of the VAWIR policy arrest and charge rates increased as discretion decreased.

With such a close working relationship between police and Crown Counsel, the change in the use of Crown discretion can be inferred to have had a negative impact on the officers arresting offenders for this offence. It seems understandable that the change in policy to give Crown more discretion may cause tension between police and Crown, when the police are still delegated under the policy to have a zero-tolerance resolve and arrest every time, although the Crown does not have that same zero-tolerance requirement. It is hard to imagine that the changing of only one aspect of the larger charging policy can really be successful over a long period of time when the police charging policy has not changed. Little research into the areas of the above discussion exists to date and only future research will be able to tell whether this Crown Counsel policy will be any more successful than the one that came before it.

Recommendations

Domestic violence has and will continue to be a serious concern for those involved. Criminal justice officials do not have an easy task in creating a domestic violence policy that addresses all of the concerns that anti-violence feminists advocate. Neither do they have the power to end domestic violence through policy alone since it is such a deep-seated social problem. Law and the criminal justice system are in place to protect victims of violence; however, an entity such as the legal system can only do so much in controlling domestic violence. In the end, it will take a radical overhaul of societal views, perceptions and education on this topic to stop it altogether. The British Columbia Institute Against Family Violence (2003) has put forth numerous recommendations that I feel are appropriate for this thesis in relation to the policy explored. Only three of these recommendations will be presented here because they are the most prominent aspects to consider for domestic violence policy and relate directly to research provided in this thesis. An example are reasons for victim recanting and specific variables that need to be included in future research are considered in these three recommendations. They are as follows:

Recommendation #1

Often victims of domestic violence are financially dependent on the person who is abusing them. Any change in policy affecting the prosecution of domestic violence offenders – as was determined with the 2002 changes to the VAWIR policy – needs to consider the financial choices available to victims to leave the situation. Welfare reform, availability of safe houses and transition workers, affordable childcare and employment

relief are all factors affecting these choices. Adequate funding to these areas is necessary if victims of domestic violence are to be assisted in ending violence in their lives.

Recommendation #2

First Nations, Black, immigrant and refugee women face different issues when deciding to leave a domestic violence situation. There must be an increase in interpretation services, victim services, education and training around their experiences and access to information for these women, and for those who are working with these populations. The inclusions of specific subsections is a beginning, but it does not stop with only that, such a complex issue deserves complex understanding of how to deal with it, possibly beyond policy changes.

Recommendation #3

The literature presented through this exploratory policy analysis, and as well beyond it, overwhelmingly indicates that although policy is a necessity in helping decrease violence against women and domestic violence in general, the best response to domestic violence cases is through a coordinated criminal justice system. There needs to continue to be adequate communication and resource sharing among all persons involved in domestic violence assaults. This includes communication and support for victims, proper funding of programs to help victims leave their abusers and adequate resources, and funding for alternative measures programs to help offenders change their behavior.

Conclusion

Domestic violence is a serious concern, for those involved in abusive relationships and for the criminal justice system and society as a whole. The reasoning and importance behind conducting an exploratory analysis of Crown Counsel's domestic violence policy is to garner a better understanding of some of the possible inherent trends that exist with cases that are proceeding with charges and what the outcomes of these cases are. As well, it has considered how these trends may have been impacted by the new policy directive of 2002. Another question is how this exploratory effort can lead to more thorough and improved future research that includes a greater analysis and evaluation of policies and law surrounding domestic violence in British Columbia. It is hoped that the exploratory research presented through this thesis may help raise questions for future research that will assist in combating domestic violence.

This analysis of British Columbia's Crown Counsel policy, although exploratory in nature, has demonstrated that some instituted changes did occur relative to what the policy mandate intended. The complexity of the problem of domestic violence, however, argues for continued monitoring of not only the domestic violence policies themselves, but also what other systematic changes need to occur to achieve significant decreases in violence against.

APPENDICES

Figure 17: Total DV Charged in all Municipalities

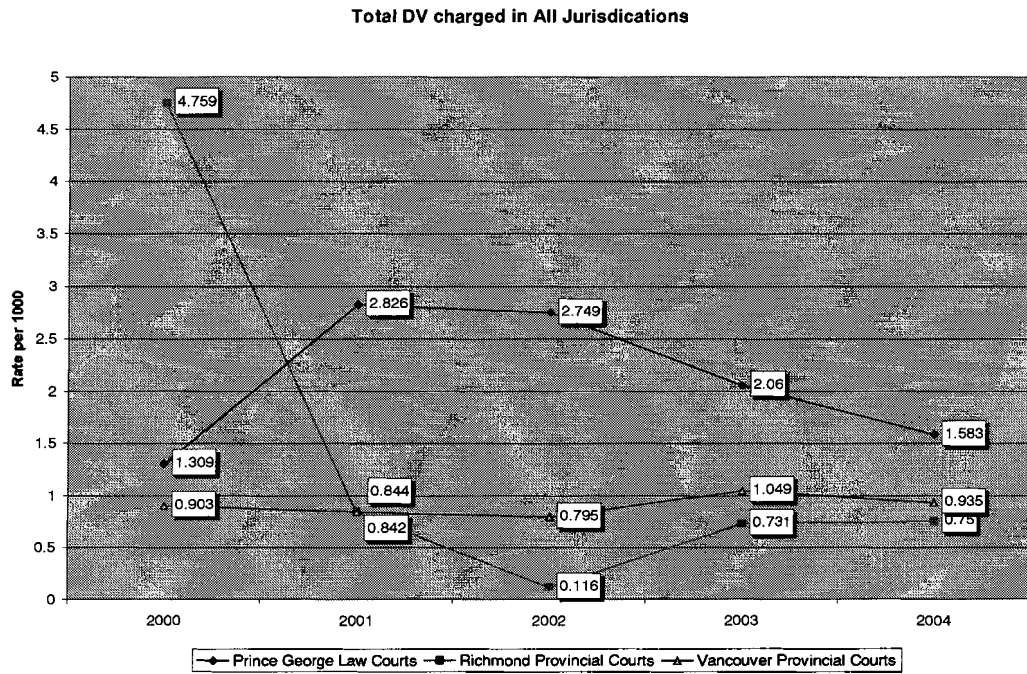


Figure 18: Total Allocated Peace Bond Prince George

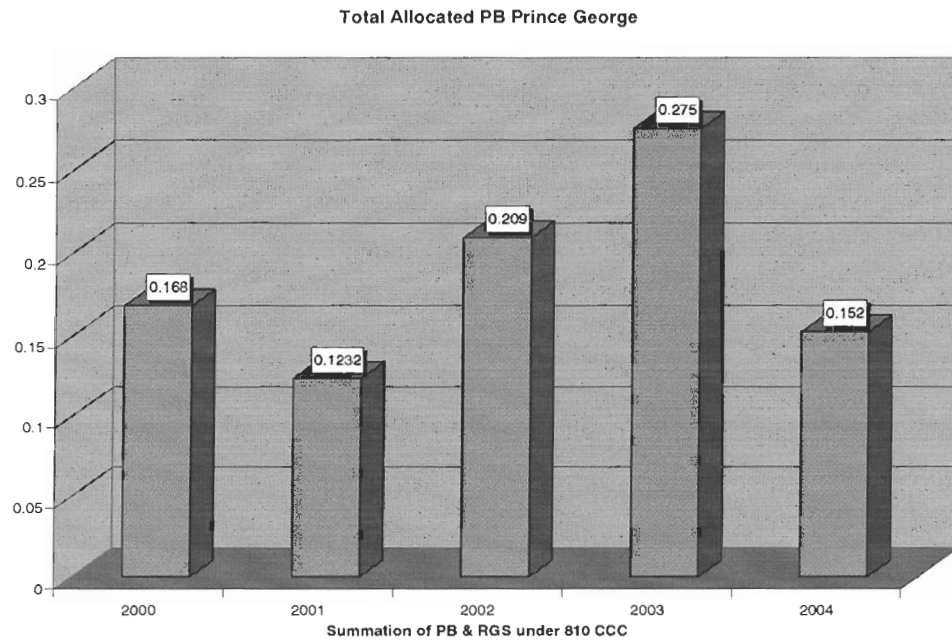


Figure 19: Total Allocated Peace Bond Richmond

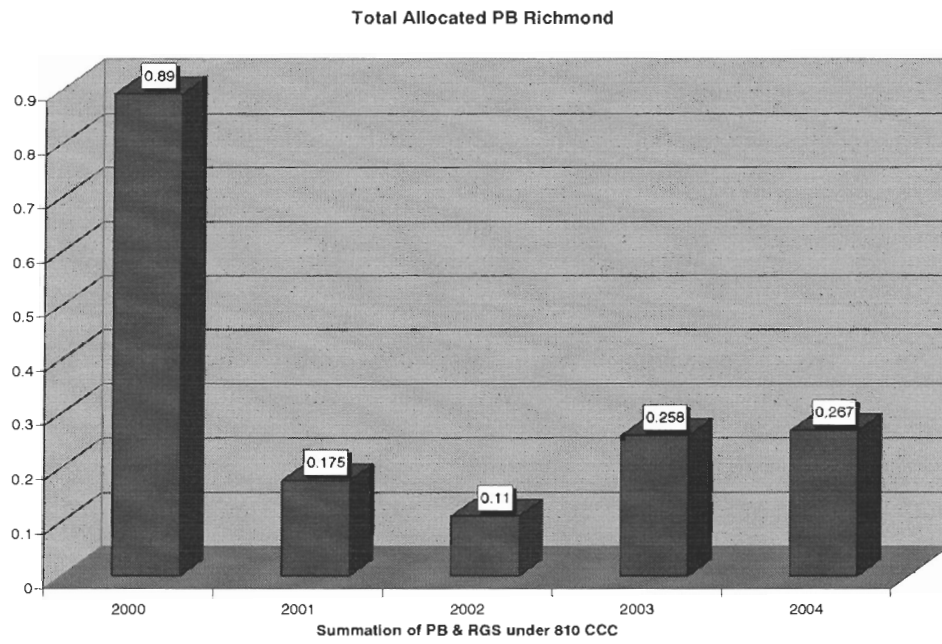
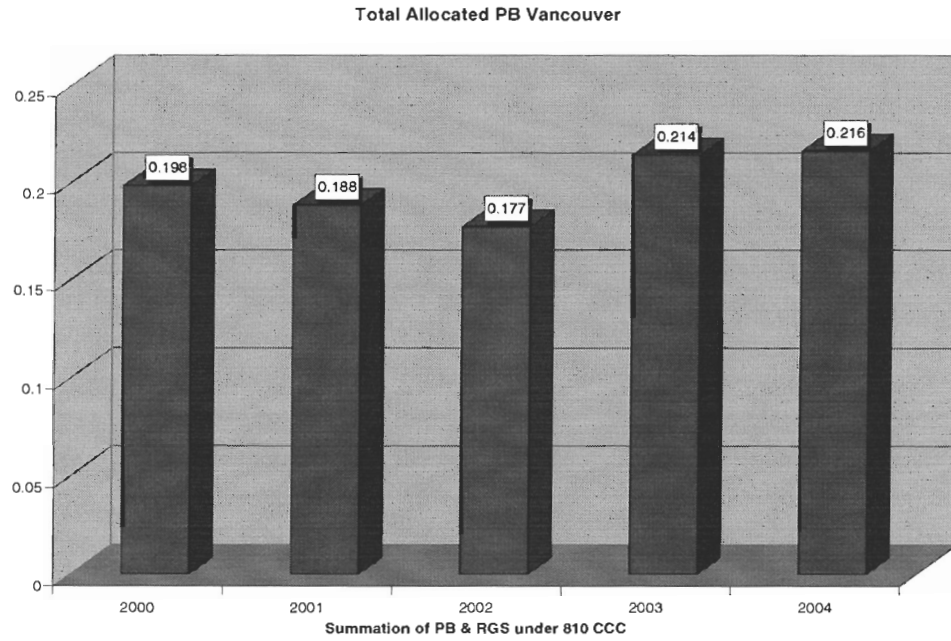


Figure 20: Total Allocated PB Vancouver



Note: For the purposes of these charts the acronym SOR no PB will be used in place of stay of proceedings with no peace bond.

Figure 21: Total Stay of Proceedings with no Peace Bond all Municipalities

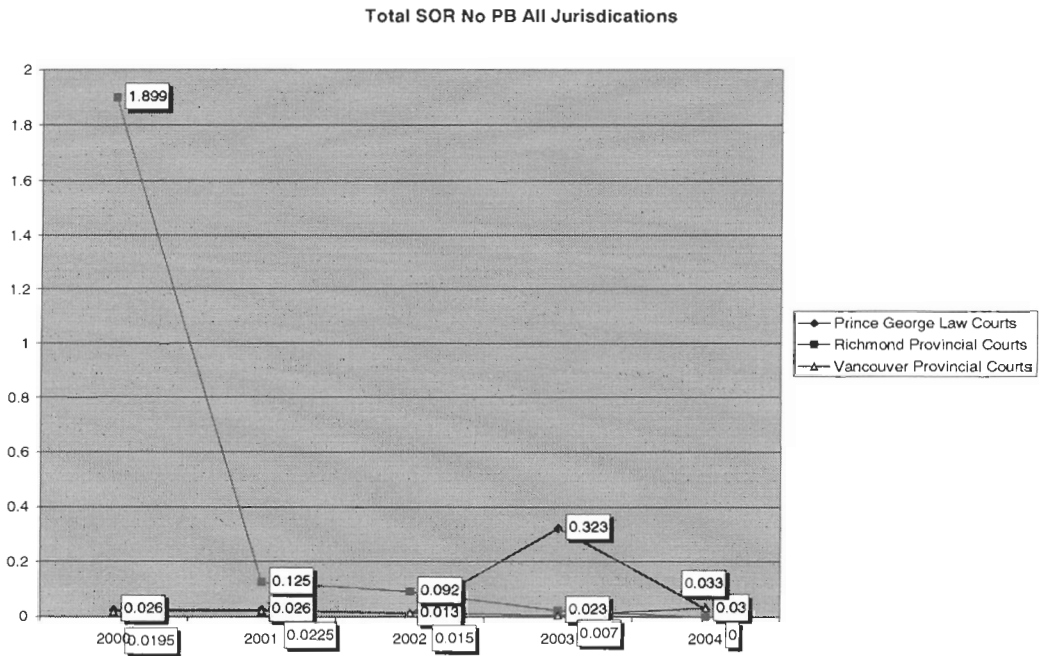


Figure 22: Total Stay of Proceedings with no Peace Bond Prince George

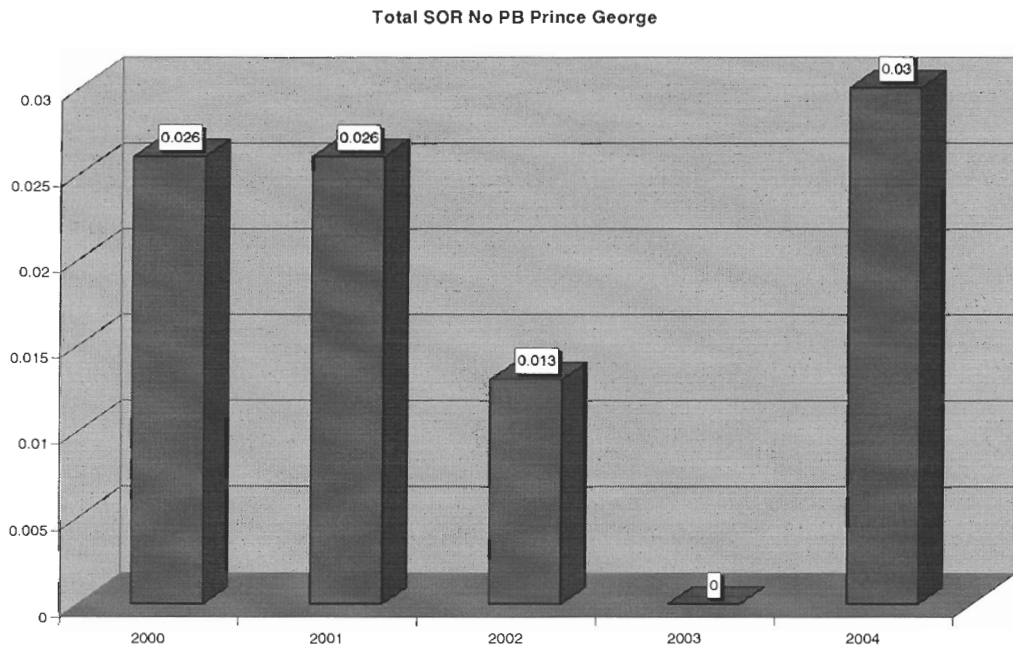


Figure 23: Total Stay of Proceedings with no Peace Bond Richmond

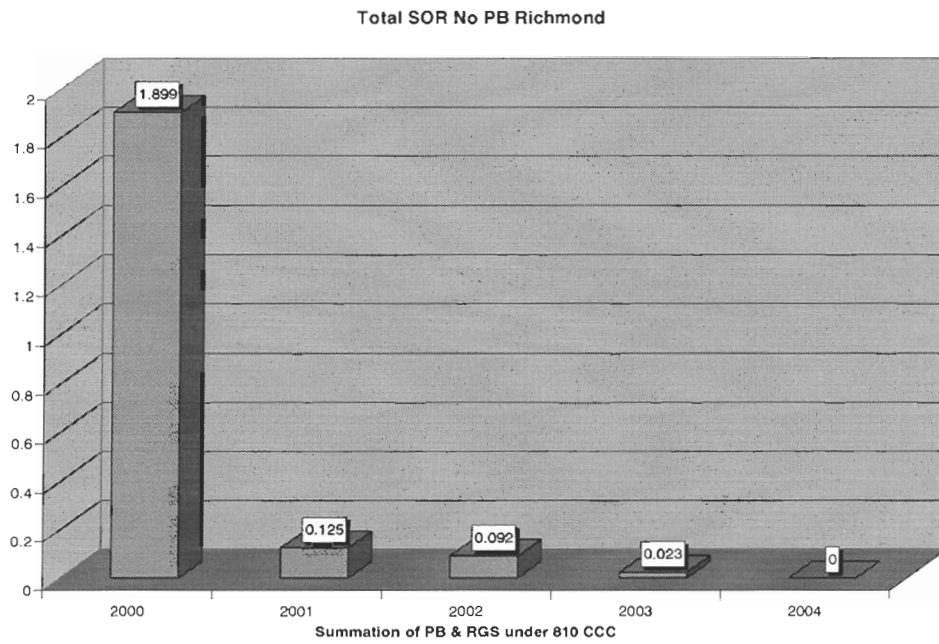


Figure 24: Total Stay of Proceedings with no Peace Bond Vancouver

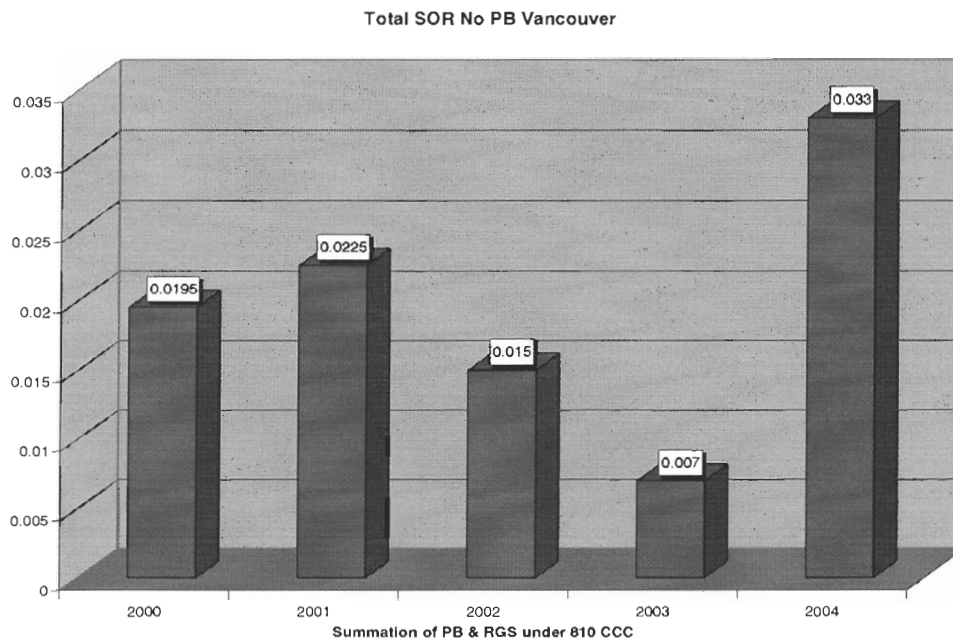
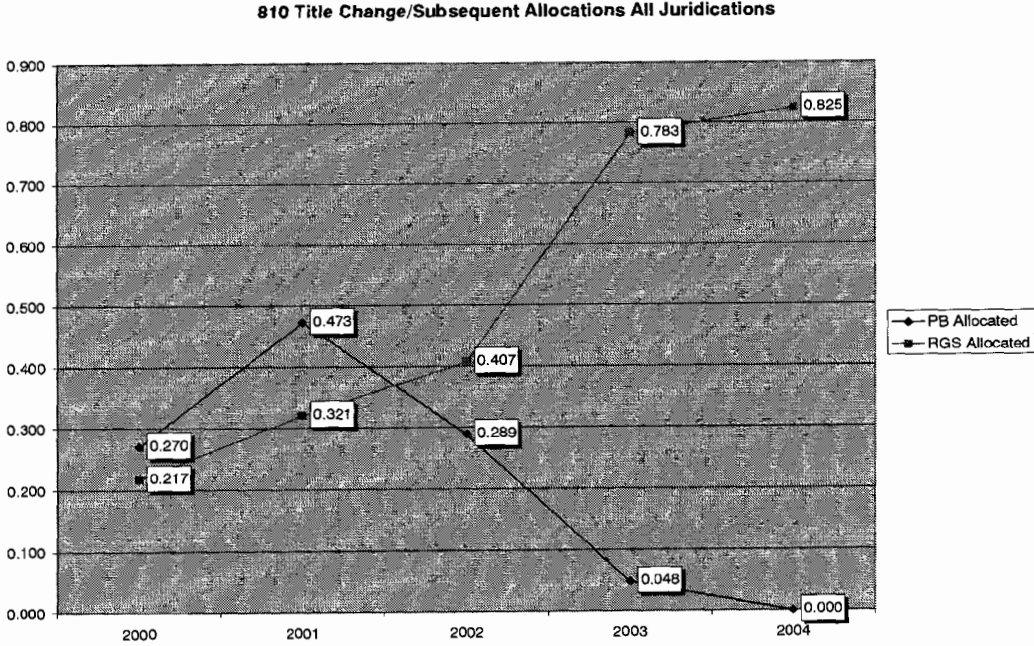


Figure 25: 810 Title Change – Subsequent Allocations all Jurisdictions



REFERENCE LIST

- Backhouse, C. (1991). Petticoats and Prejudice: Women and Law in 19th Century Canada. Toronto: The Osgoode Society.
- B.C Statistics. (2006). 2001 Census of Population Demographics (Three Municipalities). Retrieved March 7, 2006, from <http://bcstats.gov.bc.ca/data/cen01/profiles/59000000.pdf>.
- Bonnycastle, K., & Rigakos, G. (Eds.). (1998). Unsettling Truths: Battered Women, Policy, Politics and Contemporary Research in Canada (Eds.). Vancouver, B.C: Collective Press.
- Boyd, S. (Ed.). (1997). Challenging the Public/Private Divide: Feminism, Law, and Public Policy, (pp. 87-109). Toronto: University of Toronto Press.
- Brown, T. (2000). Charging and Prosecution Policies in Cases of Spousal Assault: A Synthesis of Research, Academic, and Judicial Responses (rr2001-5e). The Department of Justice Canada Final Report.
- Brockman, J., & Rose, G. (2001) Canadian Criminal Procedure and Evidence for the Social Sciences (2nd ed.). Canada: Nelson Publishing.
- Butler, J., & Scott, J.W. (Eds.). (1992). Feminists Theorize The Political, (pp. 3-22). London: Routledge Inc.
- Buzawa, E., & Buzawa C. (1990). Domestic Violence: The Criminal Justice Response. California: Sage Publishing.
- Campbell, A. (1993). Out of Control: Men, Women and Aggression. London: Pandora Press.
- Chan, W. (2001). Women, Murder and Justice. London: Macmillan.
- Chan, W., & Mirchandani, K. (2002). Crimes of Colour: Racialization and the Criminal Justice System in Canada. Toronto: Broadview Press.
- Chunn, D.E. & Lacombe, D. (2000). Law as a Gendering Practice (Eds.). Toronto: Oxford University Press.
- Coker, D. (2001). Crime Control and Feminist Law Reform in Domestic Violence Law: A Critical Review. Buffalo Criminal Law Review, 4, 801-860.
- Comack, E. (1993). Feminist Engagement with the Law: The Legal Recognition of the Battered Wife Syndrome. Ottawa: CRIAW.
- Comack, E., Chopyk, V., & Wood, L. (2000). Mean Streets? The Social Locations, Gender Dynamics, and Patterns of Violent Crime in Winnipeg. Ottawa, ON: Canadian Centre for Policy Alternatives.

- Comaskey, B., & McGillivray, A. (1999). Black Eyes all of the time: Intimate Violence, Aboriginal Women and the Justice System. Toronto, ON: University Toronto Press.
- Crenshaw, K. (1994). Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Colour. In M.A. Fineman & R. Mykitiuk (Eds.), The Public Nature of Private Violence (pp. 93-118). New York: Routledge.
- Criminal Code of Canada, R.C.S., S. 810, 811. (2002).
- Currie, D. (1985). Confronting Crime: An American Challenge. In W. DeKeseredy & R. Hinch, Women Abuse: Sociological Perspectives (pp. 34). Toronto: Thompson Educational Publishing Inc.
- Currie, D. (1998). The Criminalization of Violence Against Women: Feminist Demands and Patriarchal Accommodation. In K. Bonnycastle and G. Rigakos, (Eds.) Unsettling Truths: Battered Women, Policy, Politics, and Contemporary Research in Canada (pp. 24-51). Vancouver: Collective Press.
- Daly, K. (1997). Different Ways of Conceptualizing Sex/Gender in Feminist Theory and Their Implications for Criminology. Theoretical Criminology, 1 (1), 25-51.
- Dasgupta, S.D. (2001). Towards an Understanding of Women's use of Non-Lethal Violence in Intimate Heterosexual Relationships (pp. 1-15). Minnesota: Minnesota Center Against Violence and Abuse.
- Davis, A. (2000). The Color of Violence: Violence Against Women of Color. Keynote Address at The Color of Violence Against Women Conference. Retrieved November 14, 2004, from <http://csfcolorodo.edu/soc/m-fem/2000/msg01004.htm>.
- DeKeseredy, W.S., & Hinch, R. (1991). Woman Abuse: Sociological Perspectives (pp. 26-37). Toronto: Thompson Educational Publishing Inc.
- DeKeseredy, W.S., & MacLeod, L. (1997). Woman Abuse: A Sociological Story (pp. 109-138). Toronto: Harcourt Brace & Publishing Canada.
- Dobash, R. & Dobash, R. (1992). Women, Violence and Social Change. New York: Routledge.
- Faith, K. (1993). Unruly Women: The Politics of Confinement and Resistance. Vancouver, B.C: Press Gang Publishers.
- Famega, C. (2006). Social Construction of Crime and Justice: Myth and Reality. Seattle, 33rd Annual Conference of the Western Society of Criminology.
- Gelsthorpe, L. & Morris, A. (1993). Feminist Perspectives in Criminology. Buckingham, England: Open University Press.
- Hilton, N.Z. (1993). Legal Responses to Wife Assault: Current Trends and Evaluations (Ed.). London: Sage Publications.
- Jaffe, P., & Burris, C.A. (1981). The Response of the Criminal Justice System to Wife Abuse. Ottawa: Solicitor General of Canada.

- Jaffe, P., Reitzel, D., Sudermann, M., & Killip, S. (1990). The London Secondary School Intervention Project on Violence in Intimate Relationships. In N. Z. Hilton (Ed.), Legal Responses to Wife Abuse: Current Trends and Evaluations (pp. 62-95). London: Sage Publications.
- Jhappan, R. (1996). 'Post-Modern Race and Gender Essentialism or a Post-Mortem of Scholarship?' Studies in Political Economy 51, 15-63.
- Johnson, H. (1996). Seriousness, Type and Frequency of Violence Against Wives. In Valverde, MacLeod & Johnson (Eds.), Wife Assault and the Canadian Criminal Justice System: Issues and Policies. Toronto: University of Toronto Centre of Criminology.
- Koshan, J. (1997). Sounds of Silence: The Public/Private Dichotomy, Violence, and Aboriginal Women. In S.B. Boyd (Ed.), Challenging the Public/Private Divide: Feminism, Law, and Public Policy (pp. 87-109). Toronto: University of Toronto Press.
- Landau, T. (1998). Synthesis of Department of Justice Canada Research Findings on Spousal Assault. In, A Working Document for the Department of Justice Research and statistics Division Policy Sector.
- Langer, R. (1995). Male Domestic Violence: The Continuing Contrast Between Women's Experiences and Judicial Responses. Canadian Journal of Legal Studies, 10 (1), 65-89.
- Lockyer, B. (2005). Domestic Violence: Keeping the Promise, Victim Safety and Batterer Accountability. California: Report to the California Attorney General from the Task Force on Local Criminal Justice Response to Domestic Violence.
- Lugones, M.C. (1991). On the Logic of Pluralist Feminism. In K. Daly, Different Ways of Conceptualizing Sex/Gender in Feminist Theory and their Implications for Criminology (pp. 28-29). Theoretical Criminology, 1 (1), 25-51.
- MacKinnon, C. (1983). Feminism, Marxism, Method and the State: Toward Feminist Jurisprudence. Signs, 8 (4), 635-58.
- MacRae, J. (2003). Relationship Violence and Diversion: A Literature review on Pro-Charge Polices and Crown Discretion. Vancouver BC: The BC Institute Against Family Violence.
- Mandell, N. (2001). Feminist Issues: Race, Class, and Sexuality (3rd ed.). Toronto, ON: Prentice Hall.
- Martin, D. (1998). Retribution Revisited: A Reconsideration of Feminist criminal Law Reform Strategies. Osgoode Hall Law Journal, 36 (1), 152-183.
- Martin, M. (1994). Mandatory Arrest for Domestic Violence: The Courts' Response. Criminal Justice Review, 19 (2), 212-227.
- Michalowski, R.J. (1983). Crime Control in the 1980's: A Progressive Agenda. Crime & Social Justice, 19, 13-23.

- Miles, R. (1989). Racism. London: Routledge. In W. Chan and K. Mirchandani, Crimes of Colour: Racialization and the Criminal Justice System in Canada. Toronto, ON: Broadview Press.
- Minaker, J.C. (2001). Evaluating Criminal Justice Responses to Intimate Abuse through the Lens of Women's Needs. Canadian Journal of Women and the Law, 13 (1), 74-106.
- Ministry of the Attorney General. (1986). Violence Against Women In Relationship Policy. Victoria: Legal Services Branch.
- Ministry of the Attorney General. (2000). Violence Against Women In Relationship Policy. Victoria: Legal Services Branch.
- Ministry of the Attorney General. (2002). Crown Counsel Policy Manual. Victoria: Criminal Justice Branch.
- Ministry of the Attorney General. (2003). Vancouver Police Regulations and Procedures Manual: Relationship Violence, Violence in Relationships General Policy. Vancouver: Freedom Of Information Section Vancouver Police Department.
- Ministry of Public Safety and Solicitor General of British Columbia. (2001). Violence Against Women and Children: Violence Against Women in Relationships Policy. Retrieved April 27, 2005, from <http://pssg.gov.bc.ca/vacw/policy.htm>.
- Monture-Angus, P. (1999). Women and Risk: Aboriginal Women, Colonialism and Correctional Practice. Canadian Woman Studies, 19, 24-30.
- Nahanee, T. (1994). Sexual Assault of Inuit Females: A Comment on 'Cultural Bias'. In J. Roberts and M. Mohr (Eds.), Confronting Sexual Assault: A Decade of Legal and Social Change. Toronto, ON: University of Toronto Press.
- Pacey, K. (2002). BC's Violence Against Women in Relationships Policy and Criminal Harassment: Police Perspectives and Use of Discretion in Investigations. Vancouver B.C: The BC Institute Against Family Violence.
- Palys, T. (2003). Research Decisions: Quantitative and Qualitative Perspectives (3rd ed.). Scarborough, ON: Thomson Canada Ltd.
- Razack, S. (2000). Gendered Racial Violence and Spacialized Justice: The Murder of Pamela George. Canadian Journal of Law and Society, 15, 91-130.
- Schmidt, J., & Steury, E. (1989). Prosecutorial Discretion in Filing Charges in Domestic Violence Cases. Criminology, 27 (3), 487-510.
- Segal, L. (1990). Slow Motion: Changing Masculinities, Changing Men. In The Belly of the Beast (II): Explaining Male Violence, (pp. 234-71). London: Virago.
- Shaw, M. (1995). Conceptualizing Violence By Women. In R. Dobash, R. Dobash and L. Noabes (Eds.), Gender and Crime. Cardiff: University of Wales Press.
- Smart, C. (1976). Women, Crime and Criminology: A Feminist Critique. Boston: Routledge.

- Smart, C. (1989). Feminism and the Power of Law. New York, NY: Routledge.
- Smart, C. (1995). Law, Crime and Sexuality: Essays in Feminism. London: Sage Publications.
- Smith, M.D. (1990). Socio-demographic Risk Factors in Wife Abuse: Results from a Survey of Toronto Women. The Canadian Journal of Sociology, 15 (1), 39-58.
- Snider, L. (1990). The Potential of the Criminal Justice System to Promote Feminist Concerns: Studies in Law, Politics, and Society. In W. Chan, Women, Murder and Justice (pp. 143-72). London: Macmillan.
- Snider, L. (1994). Feminism, Punishment, and the Potential of Empowerment. Canadian Journal of Law and Society, 9 (1), 75-104.
- Statistics Canada. (1993-2002). Violent Crime in British Columbia (pp. 39-55). Ottawa: Statistics Canada Data. Retrieved February 12, 2006, from <http://statscan.ca.proxy.lib.sfu.ca>.
- Statistics Canada. (2000). Winnipeg Family Violence Court report. In Family Violence in Canada: A Statistical Profile, (ch. 6.1). Canadian Centre for Justice Statistics.
- Stubbs, J. & Tolmie, J. (1995). Race, Gender, and the Battered Woman Syndrome: An Australian Case Study. Canadian Journal of Women and the Law, 8 (1), 122-58 (Special Issue: The Legalization of Responses to Violence Against Women).
- Ursel, J. (1998). Mandatory Charging: The Manitoba Model. In K. Bonnycastle and G. Rigakos, (Eds.). Unsettling Truths: Battered Women, Policy, Politics, and Contemporary Research in Canada, (pp. 73-81). Vancouver: Collective Press.
- Ursel, J. (2001). Report on Domestic Violence Policies and Their Impact on Aboriginal People. Submitted to the Aboriginal Justice Implementation Commission. Winnipeg, MB.
- Webster, C.D., Douglas, K.S., Eaves, D., & Hart, S.D. (1997b). HCR-20: Assessing the Risk for Violence (Version 2). Vancouver: Mental Health, Law, and Policy Institute, Simon Fraser University.
- Weitzer, R., & Kubrin, C.E. (2004). Breaking News: How Local TV News and Real-World Conditions Affect Fear of Crime. Justice Quarterly, 21 (3), 497-520.
- Zorza, J., & Woods, L. (1994). Mandatory Arrest: Problems and Possibilities. National Centre on Women and Family Violence A Position Paper. In D. Coker. Crime Control and Feminist Law Reform in Domestic Violence Law: A Critical Review. Buffalo Criminal Law Review, 4, 801-860.