

APPENDIX 5



Definitions & Glossary of Terms

GLOSSARY OF TERMS

Types of Violence & Abuse

PARTNER ABUSE

Includes a broad continuum of coercive, threatening, and violent behaviours designed to control the thoughts, feelings, and actions of another person through the use of fear, intimidation, humiliation, and pain, including but not limited to emotional and psychological abuse, financial control and abuse, physical violence up to and including murder, sexual violence, and stalking/harassment, within a current or previous intimate relationship. Such behaviours may occur as a one-time incident causing physical and/or emotional injury to the victim and her family; however, in most instances, partner abuse involves repeated episodes of coercive, threatening, and violent behaviour which escalate in severity over time.

The victims of partner abuse are primarily, though not exclusively, women; the perpetrators of partner abuse are primarily, though not exclusively, men. The use of the term partner abuse throughout this Protocol recognizes that coercive and violent behaviours occur in both heterosexual and same-sex relationships; it further recognizes that there are female perpetrators of violence and male victims of violence. However, in keeping with our current understanding of the causal factors, dynamics, and incidence of partner abuse, victims are referred to as “she” and perpetrators as “he” throughout this Protocol.

EMOTIONAL AND PSYCHOLOGICAL ABUSE

Includes a wide range of actions and behaviours intended to hurt, demean, criticize, humiliate, threaten, and/or control another person through the inducement of fear, anxiety, confusion, and dependence, including but not limited to:

- ongoing and intense criticism
- name-calling and other forms of verbal abuse designed to hurt, embarrass, and humiliate
- threats to harm self
- threats and violence towards others, including family members, friends, and co-workers
- threats and violence towards pets and personal property
- threats associated with immigration status, marital status, and custody and access
- reckless and dangerous behaviour, such as running red lights and dangerous driving
- inappropriate and excessive expressions of jealousy and possessiveness
- excessive interest in and control over daily activities, and
- imposed social isolation.

FINANCIAL CONTROL AND ABUSE

Includes a wide range of behaviours designed to reinforce the power and control of the offender, increase the victim's dependence, and decrease the options for independent decision-making available to the victim, including but not limited to:

- withholding, restricting, and controlling money required for the necessities of life and/or the comfort and well being of the victim, dependents, and/or the family
- disproportionate and irresponsible spending in relation to the offender's personal needs, wants, and interests to the detriment of the victim and/or family
- withholding information about the financial resources of the couple/family and/or household financial matters
- denying access to bank accounts and financial records, and
- coercion to sign financial documents.

PHYSICAL VIOLENCE

Includes a wide range of violent, hurtful, and aggressive behaviours including but not limited to:

- hitting, punching, and slapping
- kicking
- shoving, pushing, dragging, and hair pulling
- restraining, confining, and binding
- spitting and biting
- choking
- burning with fire or chemicals, such as acid
- withholding food, medications, and other necessities of life
- using objects and weapons to injure or maim, and
- and murder

SEXUAL VIOLENCE

Includes a wide range of sexually intrusive, abusive, and controlling behaviours designed to meet the needs of the offender with callous disregard for the needs or well being of the victim, including but not limited to:

- any unwanted or forced sexual contact with partner or others
- any unwanted or forced use of objects during sexual contact
- any unwanted or forced modifications to a person's body, such as shaving pubic hair
- withholding sexual, physical, or intimate contact
- exposure to and/or forced participation in pornography

- exposure to and/or transmission of sexually transmitted diseases by denying use of protection and/or denying possibility of transmission, and
- sexually humiliating and demeaning comments, jokes, and accusations.

STALKING AND HARASSMENT

Includes a wide range of behaviours designed to maintain unwanted or forced contact between an offender and his victim, generate fear, and/or to allow the offender to observe, monitor, and control his partner's movements and activities.

Some forms of stalking and harassment are against the law. Section 264 of the *Criminal Code of Canada* prohibits **criminal harassment** as defined below:

No person shall, without lawful authority, engage in the listed conduct that causes the other person to reasonably fear for his/her safety or the safety of others:

- a) Repeatedly following from place to place the other person or anyone known to them
- b) Repeatedly communicating with, either directly or indirectly, the other person or anyone known to them
- c) Besetting or watching the dwelling, house or place, where the other person or anyone known to them resides, works, carries on business or happens to be - or -
- d) Engaging in threatening conduct directed at the other person or any member of their family.

TERMS COMMONLY USED BY LAW ENFORCEMENT & LEGAL PERSONNEL

Absolute discharge: This means that even though the accused was found guilty, the court does not register a conviction against him, with the result that he does not have a criminal record.

Accused: This is the word used to identify the person who has been charged with committing a criminal offence. Before he is charged, he may be known as the "suspect." During the trial proceedings, the accused is commonly called the "defendant." If he is found guilty, he may then be called the "perpetrator."

Acquittal: When the accused is found not guilty of the charges against him, he is given an "acquittal."

Adjournment: Court cases are often postponed to a later date – this is an adjournment. In criminal court, either the Crown or the accused can request an adjournment and in family court anyone who is a party can request one. People often ask for an adjournment to give them time to find a lawyer or to prepare their case.

Arrest: Occurs when a police officer takes physical control of a person who is believed to have committed a criminal offence and with the intent to detain said person. Arrest does not mean an individual has been charged with a criminal offence in all instances. If police are continuing an investigation following arrest, a person may or may not be charged in accordance with the outcome of the investigation.

The right to speak to a lawyer only exists from the time a person is charged. A person would not be fingerprinted or photographed until a charge is laid.

Arrest: Contravention of a Restraining Order: In the event that a police officer has reasonable and probable grounds to believe that an individual has contravened a restraining order, the officer may arrest the individual without warrant.

Assault: A person commits an assault when:

- a) without the consent of another person, applies force intentionally to that other person, directly or indirectly – or –
- b) attempts or threatens, by an act or a gesture, to apply force intentionally to another person, if s/he has, or causes the other person to believe that s/he has the ability to effect his/her purpose.

Assault with a weapon or assault causing bodily harm: Everyone commits the above offence who, in committing an assault:

- a) carries, uses, or threatens to use a weapon or an imitation thereof – or –
- b) causes bodily harm to the complainant.

Bodily harm refers to any hurt or injury to the complainant that interferes with the health or comfort of the complainant and that is more than merely transient or trifling in nature.

Aggravated assault: Everyone commits an aggravated assault who wounds, maims, disfigures or endangers the life of the complainant.

Bail: When someone is charged with a criminal offence, he can be released by the police directly from the police station if he promises to appear in court on a specified date. When the charge is more serious, the person will only be released after there has been a bail hearing in court. At this time, the accused person's lawyer will tell the court why the accused person should be released from custody and the Crown Attorney will tell the court if there are any concerns about releasing the person.

Usually, the person will be “granted bail,” which means he can be released. There will probably be some conditions on the person's behaviour and actions – they may have to abide by a curfew, live in a certain place, report to the police, hand their firearms over to the police, not drink, etc. In cases of partner assault and sexual assault, the accused will not be allowed to have any contact with the victim. Sometimes, he will have to have a person stand up in court and agree to take responsibility for his behaviour. This person is called a “surety” and may have to promise the court to pay money if the accused person breaks his bail conditions.

Bail is sometimes called “judicial interim release.”

Beyond a reasonable doubt: Different standards of proof are required by different courts. Criminal courts demand the highest standard of proof of any court. This is because a finding of guilt can result in the accused losing his or her liberty by going to jail. In order for an accused to be found guilty, the evidence must establish “beyond a reasonable doubt” that he or she is guilty. In other words, there must be no reasonable explanation for what happened other than that the accused did it. If there is any other reasonable explanation, the accused will not be found guilty.

Breach of Probation: When a person does not follow the terms and conditions of his probation order, he has committed a breach. A new charge can be laid against someone for this.

Breach of Undertaking/Recognizance: When a person fails to comply with the terms and conditions of his undertaking or recognizance, he has committed a breach. It is a criminal offence to breach an undertaking or recognizance.

Charges-Laying of Information: A formal accusation of a crime presented under oath. A person is charged when a police officer has sworn an information that alleges that the accused person has committed an offence. The information is a written document summarizing what the accused person is alleged to have done (i.e. what offence was committed): this document is filed with the court and is present in court at all future appearances.

Complainant: In the language used by police, lawyers and other criminal court officials, the victim of a crime has different names at different stages of the process. First, she is the victim. She becomes a “complainant” when she goes to the police and gives a statement about that has happened. Once a charge is laid and the case is passed to the Crown Attorney, she will become known as the “witness.”

Many women who have been the victims of violence reject this formalized language that describes them as victims or complainers, and prefer to use the word “survivor” to describe their initial experience at the hands of the accused person but also of the legal system.

Conditional discharge: Sometimes, when someone is found guilty, they are required to fulfill certain conditions as part of their penalty. This could include such things as completing a drug rehabilitation program or participating in a male batterers’ program. If the person is successful in completing the conditions, he is “discharged” or let go and will have no criminal record for this offence. If he is not successful, the judge can withdraw the discharge and enter a criminal conviction against him.

Criminal Code: The *Criminal Code* is a very large book that lists, defines and describes everything that is a crime in Canada. It applies in every province and territory in the country. Anyone found guilty of an offence that is listed in the *Criminal Code* has committed a criminal act. Other statutes that regulate the behaviour of people in Canada include the *Youth Justice Act*, *Narcotics Control Act* and the *Firearms Control Act*.

There are many illegal acts that do not fall within the scope of the *Criminal Code*. These activities are often governed by provincial legislation and will vary from province to province. People can be found guilty of them and be sentenced to penalties that include jail time.

The offences that fall within provincial authority tend to be of a less serious nature than those that fall under the authority of the federal *Criminal Code*.

Criminal trial: When someone is charged with a criminal code offence or provincial offence, the case immediately begins proceeding towards a trial.

Along the way, there are many opportunities for a non-trial resolution. For instance, the accused person might plead guilty in which case there would not be a trial. The Crown might withdraw the charges. The defence lawyer and the Crown might work out a plea bargain.

However, if there is no such resolution, the case will eventually go to a trial, at the end of which the accused will either be found guilty or not guilty. Following this phase, if the accused has been found guilty, a sentencing hearing is held to determine the appropriate penalty.

Cross-examination: This is one of the kinds of questioning for a witness in a trial. It is done by the lawyer on the other side of the case. In a criminal trial, the accused is cross-examined by the Crown and the victim is cross-examined by the defence lawyer. In a family trial, the mother and any of her witnesses are cross-examined by the father's lawyer and he and his witnesses by the mother's lawyer. The main purpose of cross-examination is to test the credibility of the witness. It is very difficult to be cross-examined, as the lawyer can often make the witness feel as though she is stupid or lying.

Crown Attorney: The Crown Attorney is the lawyer who represents the state in a criminal trial. Crown Attorneys prosecute criminal cases; they argue against the defence. Crown Attorneys are public employees and are responsible to the government. They do not represent the victims of the offence. This can be confusing to a victim who may feel that the Crown Attorney is her own lawyer. While the Crown Attorney will respect the wishes and concerns of the victim as much as possible, her/his first priority is to represent the interests of the community/state.

Each geographic district has one Crown Attorney and any number of Assistant Crown Attorneys, who handle most of the criminal cases.

Defence lawyer: This is the lawyer who represents the accused person in a criminal trial.

Discharge: An offender receives a discharge in those instances when s/he is found guilty in relation to a specific offence in a court of law but no conviction is registered. In these instances, there is no "criminal record"; however, a record of the finding of guilt is maintained by the police.

Domestic Incident: Any conflict between two or more persons who are in an intimate relationship, whether living together or not, where, even though no criminal or provincial offence has occurred, the police have been called to the scene. This includes conflicts in opposite-sex and same-sex relationships but not parent/child or sibling/sibling conflicts.

Domestic Violence: This generic term is frequently used by law enforcement personnel in General Orders and/or any internal procedures relating to partner abuse. Within the anti-violence sector, this term is generally used to describe all forms of violence and abuse that may occur within domestic environments and/or relationships including: child abuse; elder abuse or violence against seniors within the home; parental abuse; partner abuse; and violence between siblings.

In accordance with the criminal justice system, police refer to a specific legal definition of domestic violence, that they are obligated to follow. This definition varies somewhat, from the definition of partner abuse that was defined earlier in this protocol.

Domestic violence is any use of physical or sexual force, actual or threatened, in an intimate relationship. Intimate relationships include those between the opposite-sex and same-sex partners. These relationships vary in duration and legal formality, and include current and former dating, common-law and married couples. Although both women and men can be victims of domestic violence, the overwhelming majority of this violence involves men abusing women.

These crimes are often committed in a context where there is a pattern of assault and controlling behaviour. This violence may include physical assault, and emotional, psychological and sexual abuse. It can include threats to harm children, other family members, pets and property. The violence is used to intimidate, humiliate or frighten victims, or to make them powerless. Domestic violence may include a single act of abuse. It may also include a number of acts that may appear minor or trivial when viewed in isolation, but collectively form a pattern that amounts to abuse.

According to the Criminal Code of Canada, charges relating to domestic violence may include:

- assault
- murder
- assault with a weapon or assault causing bodily harm
- aggravated assault
- sexual assault
- sexual assault with a weapon
- aggravated sexual assault
- uttering threats
- criminal harassment (known as stalking)
- forcible confinement
- kidnapping, hostage taking
- administer noxious substance
- strangle, choke, suffocate
- fail to comply with condition of recognizance (bail)
- being unlawfully in dwelling-house
- forcible entry
- fail to provide necessaries of life
- harassing telephone calls
- obstruction of justice
- breach of probation
- break and enter with intent
- mischief
- intimidation

In addition to Criminal Code offences there are other Provincial Act offences that may apply in a domestic violence situation. Contravention of valid court orders under the Family Law Act, and Children's Law Reform Act in connection with a domestic violence incident, are also included.

Charges can also be laid in regards to trespassing, under the Trespass to Property Act. The Trespass to Property Act is a provincial statute, not a federal statute such as the Criminal Code. The penalties for provincial statutes vary from criminal statutes.

Dominant-Aggressor Theory: Exploration of historical patterns and dynamics within an intimate relationship. Used by police officers to determine appropriate charging when faced with allegations of violence by both partners (as opposed to automatically proceeding with dual charging).

Duty counsel: This is a lawyer provided by the state to assist people at no cost who do not have their own lawyer and who qualify financially. For instance, in criminal court, an accused who does not have a lawyer can use duty counsel to assist with a bail hearing, a guilty plea or an adjournment. In family court, any party to a proceeding can get basic legal advice and assistance from duty counsel. Duty counsel cannot conduct a trial for someone.

Election: In a criminal case, some charges are indictable, some are summary and some are hybrid. Each of these terms is defined elsewhere in this glossary. If a charge is hybrid, the Crown Attorney chooses whether to proceed by way of indictment or by way of summary conviction. This is called the election of proceedings.

Examination in chief: This is one of the kinds of questioning for a witness in a trial. It is done by the lawyer on the same side as the witness. In a criminal trial, the accused and any of his witnesses are examined in chief by the defence lawyer and the victim and any witnesses on her side by the Crown Attorney. In family court, each person and their witnesses are examined in chief by that person's lawyer (for example, the mother and her witnesses are examined in chief by the mother's lawyer). This examination provides the witnesses to give their detailed story of what has happened.

Guilty: In a criminal case, the accused may decide to plead guilty, which is admitting he is responsible for the act. If he does not, there will be a trial, at the end of which, depending on the evidence, he may be found guilty.

Hybrid offences: Also known as "Crown option" or "dual procedures" or "dual offences." Includes offences which may be prosecuted either by summary conviction or indictment. The Crown chooses the mode of prosecution; hybrid offences are considered indictable until the Crown makes its decision. Examples: Assault; Impaired Driving; Theft Under \$5,000.

Incarceration: When a person has been convicted of a criminal offence, there are a number of possible penalties that can be imposed by the judge. Incarceration, which

means the person must spend a period of time in either a provincial jail (if the period of time is less than two years) or a federal prison (if the time is two years or more) is the most severe. Frequently, individuals found guilty are punished by being placed on probation, by having to pay a fine and/or by having to serve what is called a conditional sentence. This means that they are under a form of “house arrest” – while they are not in jail, their movements are limited and other conditions may be placed on their activities.

Indictable offence: There are three types of criminal offences: summary conviction offences, hybrid offences (where the Crown can elect to proceed by summary conviction or by indictment), and indictable offences. The charge of assault is a hybrid offence. The charge of aggravated assault is a straight indictable offence, which means it is automatically indictable.

For indictable offences (either where the crown has elected by indictment, or offences that are automatically indictable) the accused has the option to be tried in the Ontario Court of Justice by a provincial court judge, or in the Superior Court by a superior court judge after having a preliminary inquiry, or a Superior Court judge with a jury after having a preliminary inquiry. The length of sentence is greater for offences proceeded with by indictment, than summary conviction offences.

If the crown elects to proceed by summary conviction (in those cases where the crown has an election). the accused can only be tried in the Ontario Court of Justice and there will not be any preliminary hearing, and the maximum penalty is lower than if the Crown proceeded by indictment. Where a charge is laid six months or more after the date of the offence, the Crown must proceed by indictment unless the accused consents to a summary election.

Intermittent sentence: When someone convicted of a criminal offence receives a jail sentence of 90 days or less, he may be allowed to serve it on weekends, which is an intermittent sentence.

Intimidation: Everyone who, wrongfully and without lawful authority, for the purpose of compelling another person to abstain from doing anything that s/he has a lawful right to do, or to do anything that s/he has a lawful right to abstain from doing:

- a) uses violence or threats of violence to that person or his/her spouse or children
 - b) intimidates or attempts to intimidate that person or a relative of that person by threatening injury or property damage
 - c) persistently follows that person from place to place
 - d) hides any tools, clothes, or other property owned by or used by that person, or deprives him/her of them or hinders him/her in the use of them
 - e) with one or more other persons, follows that person, in a disorderly manner, or on a highway
 - f) besets or watches the dwelling house or place where that person resides, works, carries on business or happens to be, or
 - g) blocks or obstructs a highway
- is guilty of an offence.

Judge: A judge may be either federally or provincially appointed. Judges, who must be lawyers, have the authority to hear criminal matters and family matters, and decide on the outcomes. In criminal court, judges decide whether or not the accused person is guilty and what penalties are appropriate for people who are found guilty. Criminal court judges also may rule on bail, although most bail is handled by Justices of the Peace. In family court, judges make decisions on custody and access, restraining orders, support, division of property, adoption and child protection cases.

Justice of the Peace: These people, who do not have to have had legal training, are provincially appointed and have fewer areas of responsibility than do judges. In addition to handling most bail cases, JPs issue warrants and hear provincial offences cases and decide on the outcomes.

Mischief: Everyone commits mischief who willfully:

- a) destroys or damages property
 - b) renders property dangerous, useless, inoperative or ineffective
 - c) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of property
- is guilty of an offence.

No contact order: This is an order of the court, either criminal or family, that prevents one person from having any contact with another. Often, this is a condition of a bail order. Other kinds of no contact orders include probation orders, peace bonds and, in family court, restraining orders.

No publication order: In some kinds of criminal trials, including any involving children or sexual assault, the judge can make an order preventing the media from printing information that could identify the victim. These orders are also known as “publication bans.”

Ontario Court of Justice/Superior Court of Justice: There are two levels of trial court. The Ontario Court of Justice is the lower court, and the Superior Court of Justice is the higher court. Both levels of court have jurisdiction over criminal matters.

Bail hearings are heard in the OCJ, except for homicides, and all trials where the crown has elected to proceed by summary conviction are heard in the OJC. Where the Crown has elected by indictment the accused can choose, in most instances, to be tried in the OCJ or the SCJ. Jury trials are only held in the Superior Court of Justice.

Own recognizance: At a bail hearing, the accused may be released “on his own recognizance” which means he does not have to post any bail money or provide a surety to be released from custody. There may, however, be conditions on his behaviour.

Parole: Permission granted by the Ontario Board of Parole in those instances when an individual’s sentence is under two years, or by the National Parole Board in those instances when an individual’s sentence is two years or more, for a person subject to a prison sentence to serve a portion of that sentence in the community, e.g.

- Someone who has been given a prison sentence of two or more years can apply to be released from prison after serving only part of his sentence. If successful, he will be released “on parole.” A parole officer will be assigned to that person, who may have conditions similar to bail conditions imposed on him. In other words, he will not be in prison, but will not be completely free either. The conditions may lessen over time if there are no problems, but if he breaches any of the conditions, he can be re-arrested and returned to prison for the rest of his sentence. His parole, and the conditions on his behaviour, continue until the end date of his sentence.

Peace Bond: (Sureties to Keep the Peace; Restraining Order) Any person who fears that another person will cause personal injury to her/his spouse or child or will damage her/his property may lay an information before a justice of the peace. A justice of the peace who receives an information shall cause the parties to appear before her/him or before a summary conviction court having jurisdiction in the same territorial division. The justice of the summary conviction court before which the parties appear may, if satisfied by the evidence given that the informant has reasonable grounds for her/his fears, may:

- a) order that defendant enter into a recognizance, with or without sureties, to keep the peace and to be of good behaviour for any period that does not exceed twelve (12) months, and comply with such other reasonable conditions prescribed in the recognizance as the court considers desirable for securing the good conduct of the defendant - or -
- b) commit the defendant to prison for a term not exceeding twelve (12) months if s/he fails or refuses to enter into a recognizance.

Plea bargaining: In criminal cases, the Crown Attorney and the defence lawyer meet several times to discuss what should happen. Sometimes, the Crown Attorney will agree to reduce the charge(s) to a less serious one or to reduce the penalty if the accused person agrees to plead guilty. This process is called plea bargaining.

Pre-disposition report: A report prepared by a probation officer to assist a judge in a Young Offenders Court in sentencing a person found guilty and convicted of an offence.

Pre-parole Investigation: A report prepared by a probation officer to assist the Parole Board in their decision re: granting or denying an application for parole.

Pre-sentencing report: A report prepared by a probation officer to assist a judge in adult Court in sentencing a person found guilty and convicted of an offence.

Probation: When a person convicted of a criminal offence is released into the community without going to jail, he is on probation. Sometimes, people first serve a short jail sentence and then are released, but are still on probation. During this time, the person will likely have to follow conditions similar to bail conditions. If he breaches them, he can be arrested and sent or returned to jail.

Promise to appear/release from custody by officer in charge: A process, given to an officer in charge, who releases an accused person on a promise to appear to come to court

at a specified date, time and place. An officer in charge may set the terms the released person must follow prior to appearing in court.

Reasonable grounds: A set of facts or circumstances that would satisfy an ordinary, cautious, and prudent person that there is reason to believe an offence has been committed and which goes beyond mere suspicion. A police officer, in deciding whether or not there are reasonable grounds for any action contemplated, must review all the facts, including verbal evidence, and then decide if some facts satisfy the interpretation.

Recognizance: An obligation entered into before a court whereby the individual entering the recognizance acknowledges that he will abide by the terms set out within said recognizance.

Sexual assault: An assault, within any one of the definitions of assault, which is committed in circumstances of a sexual nature such that the sexual integrity of the victim is violated. A husband or wife, as defined and recognized by current law, may be charged with sexual assault with respect to his or her spouse, regardless of whether the individuals involved were living together at the time of the assault.

Show cause hearing: Judicial proceeding to decide the necessity for the continued detention of an accused. The question of detention or release is decided upon proof of facts established at a judicial hearing.

Subpoena: A document that legally requires the recipient to appear in court at a specified date, time and place to testify as a witness. Failure to abide by a subpoena may result in a material witness warrant being ordered by the court. A material witness warrant directs the police to arrest a witness in order to bring them to court.

Summary offence: A summary offence is a crime that is considered less serious and for which the maximum penalties are lighter. The accused has his trial in front of a provincial court judge, with no option to have a trial by jury. Generally, if convicted, the accused can receive a fine of not more than \$2,000 and/or a jail sentence of no more than 6 months. However, if the conviction is for criminal harassment or sexual assault, the maximum penalty is 18 months incarceration.

Summons: This is a legal document requiring an accused person to appear in court on a specified date.

Surety: This is a person who agrees to be responsible for the behaviour of the accused while he is out of custody on bail.

Suspended sentence: Sometimes, a judge will order a jail sentence and then suspend it, which means the person does not actually have to go to jail, as long as he follows certain conditions. If he does not follow the conditions, the judge can send him to jail to complete the original sentence.

Testify: This is when someone, in court, gives evidence under oath; that is, tells her story about what she has seen and/or heard.

Undertaking: A process given to a justice or judge releasing an accused person to attend court as a later date. Specific terms and conditions may be ordered for the time period between court appearances, such as a requirement that the accused abstain from alcohol and/or not associate with the victim or the victim's family.

Uttering threats: Everyone commits an offence who, in any manner, knowingly utters, conveys or causes any person to receive a threat:

- a) to cause death or serious bodily harm to any person
- b) to burn, destroy or damage real or personal property - or -
- c) to kill, poison or injure an animal or bird that is the property of any person.

Victim: This is the person who has been harmed by the accused.

Victim Impact Statement: This is a written statement that the victim can prepare after the accused has been found guilty. In it, she talks about the effects on her of what the accused has done.

Warrant: This is an order from the court that gives the police the authority to arrest someone or, in the case of a search warrant, to search a person or a place.

SOME COMMON CRIMINAL CHARGES IN VIOLENCE AGAINST WOMEN CASES

Assault: When someone touches another person, directly or indirectly, without that person's consent or when the person attempts or threatens, by an act or gesture, to touch another person, if the person has or can make the other person believe he has the ability to carry out his threat, an assault has occurred. This is a criminal offence, whether or not the victim has any injuries.

Assault with a weapon or causing bodily harm: This is assault when the person carries, uses or threatens to use a weapon or an imitation of a weapon or causes physical harm that interferes with the health or comfort of the victim. This is a criminal offence.

Aggravated assault: This is assault that involves wounding, maiming, disfiguring or endangering the life of the victim. This is a criminal offence.

Criminal harassment: This is the legal term for stalking. It is illegal for someone to repeatedly follow someone from place to place, repeatedly communicate with that person, spend time outside that person's house or workplace or make threats against the person, if it causes that other person to be fearful for her safety.

Forcible confinement: No person can legally force another person to remain somewhere or interfere with (block) the person from leaving a place. Anyone who does this can be charged with forcible confinement.

Sexual assault: Any unwanted touching of a sexual nature is sexual assault. This can range from touching of sexual parts of the body to vaginal or anal penetration. As with other assaults, if weapons are involved or there is serious physical injury, the charge can become either sexual assault with a weapon or aggravated sexual assault.

Uttering threats: It is a criminal offence to utter a threat to kill or seriously harm another person, to destroy another person's property or to injure or kill an animal or bird belonging to another person.

SOME COMMON FAMILY LAW TERMS

Application: A proceeding in family court begins when one person brings an application, in which she lists what she is seeking – for instance, custody of the children, child support and so on.

Arbitration: Some couples decide to use an arbitrator rather than going to court to resolve their issues after separation. Arbitrators, who may or may not have legal training, provide a binding decision just as judges do. They must follow Canadian law in reaching their decisions, which can be appealed.

Balance of probabilities: Different standards of proof are required by different courts in order to establish guilt/liability. In family court, the standard of proof is on a balance of probabilities, which means the judge has to believe that one person's story is more likely than not to be true as compared to the other person's story. This is a much lower standard of proof than that required in criminal court, which is beyond a reasonable doubt.

Best interests of the child test: This is the test used to determine appropriate custody and access arrangements for children after the parents separate. Judges must consider such criteria as which parent can offer the child the greatest stability, which parent will maintain contact with the child's extended family, which parent has the greater ability to meet the child's needs and so on. The wishes of the child will be considered if the child is old enough to communicate them.

Child and Family Services Act: This is the legislation in Ontario that governs child protection and the operation of the Children's Aid Society across the province.

Child support: This is the money that is paid by the parent with whom the children spend less time to the other parent to help with the financial support of the children.

It is determined by examining the income of the person who will be paying the support.

Children’s Law Reform Act: This is the legislation in Ontario that governs child custody and access. Section 24 sets out the best interests of the child test.

Custody and access: After parents separate, or if they have never lived together, it is necessary to make legal arrangements for how the children spend time with each parent. Custody refers to the parent who has the primary responsibilities for the children; access to the time the other parent spends with them. There can be sole custody, in which one parent has all the legal responsibilities or joint custody, in which these responsibilities are shared. Access can be supervised where there are concerns about the safety of the children or unsupervised. Custody and access orders are extremely varied and reflect the needs of each family.

Division of property: When married people separate, they must divide up all of their belongings. The law requires that any property they accumulated while they were married be shared equally between them, regardless of who paid for it. If the two people cannot agree on this, they can go to court to get an “equalization of net family property.” Property includes physical things like houses, cottages, trailers, cars, boats and furniture but also includes pensions, RRSPs and other financial investments. It also includes debts, for which both people are responsible.

Divorce Act: This is the federal law that applies to people seeking a divorce. It also sets out how custody, access, support and property division are to be handled. It is a law that applies to people everywhere in Canada.

Family Law Act: This is an Ontario law that governs division of family property, support and restraining orders.

Family Law Information Centre: These offices in family courts are a center for information about family law. People can speak with an advice lawyer and other staff to assist them in obtaining basic family law information as well as information about how to start a family court proceeding. The services are free, located at 4th floor, Century Place, Belleville, Ontario.

Family Responsibility Office: Ontario’s Family Responsibility Office (FRO) is a division of the Ministry of Community and Social Services and operates under the authority of the Family Responsibility and Support Arrears Enforcement Act, 1996. The FRO receives every support order made by the Ontario courts and enforces the amounts owed under the support order.

Matrimonial home: This is the home where the couple lived, whether it was owned or rented by them. It can be a house, an apartment, a trailer, a boat – anywhere they lived as a couple. It is possible to apply to the family court for an order for exclusive possession of the matrimonial home. Whichever person is successful in this can then change the

locks on the home, and the other person is not allowed on the property. This does not affect the ownership of the home – just who can live there.

Mediation: This is a process in which the separating couple can meet with a third party to try to come to a compromise on issues of disagreement. The mediator cannot force the people to agree to something but can make suggestions and help them work towards a common position.

Motion: Motions are court proceedings brought on interim matters, while the case is moving towards a final trial. They are commonly used in family court to establish interim custody, access and child support arrangements and to obtain restraining orders.

Office of the Children’s Lawyer: The Office of the Children’s Lawyer is a law office in the Ministry of the Attorney General which delivers programs in the administration of justice on behalf of children under the age of 18 with respect to their personal and property rights. Lawyers within the office represent children in various areas of law including child custody and access disputes, child protection proceedings, estate matters and civil litigation. Clinical investigators prepare reports for the court in custody/access proceedings and may assist lawyers who are representing children in such matters.

Restraining order: This is an order from the family court that keeps one person away from another.

Settlement conference: Most family cases involve a settlement conference, when the people, their lawyers and the judge meet outside the courtroom to try to resolve the case or at least some of the issues.

Spousal support: This is support paid by the spouse with the higher income to the other spouse in order to address any financial differences that are the result of the marriage (for example, the woman who stays home for 20 years to raise the children is likely to receive spousal support from her husband, if he continued working through those years).