



## Crown Attorneys

The role of the crown is to vigorously prosecute all cases of woman assault and to provide support and information to abused women during their involvement with the justice process. They can also support women and ensure their co-operation in the criminal justice process by providing information to women and their families about the availability of community services. Crown Attorneys will co-operate with the efforts of community services.

### SECTION A: INITIAL INVOLVEMENT

The time period from charges being laid to the first court appearance is approximately one week. At the first appearance in court, a plea of guilty or not guilty may be entered by the accused or his lawyer. If the accused does not have a lawyer or there are court delays, a second court appearance is scheduled for the same purpose.

#### 1. PLEAS OF GUILTY:

If the accused enters a plea of guilty, the case proceeds to Sentencing which may occur at this time or at a later date. (See Crown Section D, "Sentencing")

If the offender or his counsel requests that sentencing proceed at the time a guilty plea is entered, the Crown Attorney should ensure that he/she has spoken with the woman to ensure that her input with regard to sentencing is considered. If this cannot occur at this time, the Crown Attorney should request some adjournment time to allow an opportunity to speak with the woman.

#### 2. PLEAS OF NOT GUILTY

If the accused enters a plea of not guilty, the case is set for a Trial Date.

#### 3. PRIOR TO THE FIRST COURT APPEARANCE

Prior to the first court appearance, a woman has the right to speak with a crown attorney to ensure: she understands the charges, the conditions, her rights and options, and action to take if the conditions are not met or further assault occurs

she is aware of the criminal process, including the date of the first court appearance, and expectations of her and her role at that time

she is aware of services which can support and assist her The Crown Attorney that the woman meets with is called a community crown who is located in the local police station. This is not necessarily the Crown Attorney handling the case in court, as the case is not assigned until several days prior to the trial date.

If a woman wishes a meeting with a Community Crown Attorney, she should call the Crown Attorney's office to arrange an appointment.

### SECTION B: ONGOING CONTACT

If the case goes to trial, a Crown Attorney will be available to meet with the woman if she initiates a request for this meeting. In the time period prior to the case being assigned a woman may meet with the Community Crown. After the case is assigned a woman can meet with the Crown Attorney who will handle the trial.



During this meeting the Crown Attorney ensures:

- the woman is aware of the criminal process, including the date of the trial, who the players in the court room are, and their roles
- the woman is aware of the expectations of her and her role during the trial and is adequately prepared
- the woman is aware of other options or discussions such as plea bargains and these are discussed with her
- the woman is given an opportunity to update the Crown Attorney on any dangers, safety concerns, breaches of conditions, pressures being placed on her, or fears she may have with respect to her partner or the trial process
- the woman has been given an opportunity to complete a Victim Impact Statement and if not, this is explained and arrangements are made for her to complete it if she wishes to do so
- the woman is aware of community supports Throughout the criminal justice process, the Crown Attorney will attempt to have contact with the woman if there are changes to court dates, procedures or any form of proposed disposition of the case those she has been informed of previously.

### **1. BAIL REVIEW**

As conditions of bail are placed upon assailants at the time of the charge, these conditions remain intact until the disposition of the case. The placing of the conditions provides safety for a woman as well as an opportunity to discuss and think about her concerns and needs without violence or the threat of violence. Also, if the accused cannot have contact with the woman, there is less likelihood of pressure or threats to have the charges dropped, a common tactic used by abusers.

The only means by which these conditions can be varied or waived is through a Bail Review. A Bail Review will be considered only after the first appearance in court by the accused, to ensure time and safety for the woman and for both her and the Crown Attorney to assess her safety needs.

Crown Attorneys or other counsellors should explain this fact and reasoning to a woman when meeting with her, assessing her needs and concerns and ensuring that she has appropriate support services available to her during this time.

A review of bail conditions after the first court date will be left to the discretion of the Crown Attorney.

This policy is based on the reality that the continuation of conditions until the trial date could mean a more lengthy time frame. While continuation of the conditions to disposition is the safest option, it is recognized that some women may be involved in the criminal justice process but may not have decided to terminate the relationship.

While it is important that some time exists where the woman is protected from and does not have contact with her partner, it is recognized that immediate support and intervention with the abused woman is critical during this time period.

### **2. WITHDRAWAL OF CHARGES**

Given the dynamics of woman abuse and the role of denial, it is not uncommon for a partner to request that charges against the assailant be withdrawn. It is questionable if these are the true wishes of the partner or whether the assailant has utilized control or threats to insist on the request.

**Charges in woman assault cases will not be withdrawn by the Crown Attorney.**

Exceptions to this policy are the judgement of the Crown Attorney made only in exceptional circumstances, such as the need for the woman to re-locate a considerable distance for safety reasons.



### 3. HOSTILE WITNESSES

Crown Attorneys continue their role of vigorous prosecution by making efforts to ascertain the truth about the assault during the trial as a means of ensuring that the accused is held accountable for his behaviour.

This policy recognizes that this process is extremely difficult since the woman, as the victim of the assault, is the primary witness in the prosecution. She is placed in a position where she is responsible for providing damaging information about a person she cares about and in doing so is forced to re-live her own experience of the assault. She is compelled to do this when she may also have legitimate fears regarding her own safety.

As a result, support and preparation must exist for women from the time of the charge through to disposition of the case and sentencing. Without support, it is recognized that women may legitimately become hostile witnesses.

Crown Attorneys will make all reasonable efforts to ensure that a woman has received the support and preparation necessary for her to co-operate with the criminal process. If, at the time of trial, the woman is a hostile witness, the Crown Attorney will utilize necessary efforts to establish a true and accurate account of the assault from her. Crown Attorney's proceed with a charge of perjury or mischief only as a last resort, recognizing that this would be a complete re-victimization and should be avoided if any other avenue or solution is available.

### SECTION C: ADJUDICATIONS

If an offender Pleads Guilty at a court appearance or is Found Guilty as a result of a trial and is **not convicted**, the following dispositions are possible:

- conditional discharge and probation
- absolute discharge

If an accused Pleads Guilty at a court appearance or is Found Guilty as a result of a trial, he can also be **convicted** and the following dispositions are possible:

- suspended sentence and probation
- fine and probation
- jail and probation
- fine
- jail

The difference between a finding of guilty without a conviction and a conviction is the seriousness of the crime and therefore the seriousness of the disposition. In a finding of guilt without a conviction, it is believed that the public interest and deterrent effect can be accomplished without the offender retaining a criminal record. In a finding of guilt with a conviction, it is believed that this can only be accomplished if the offender has a criminal record of conviction.

**In cases of woman assault, a criminal record of conviction is the appropriate adjudication.**

### SECTION D: SENTENCING

Once the assailant either Pleads Guilty to the offense or the case goes to trial and the assailant is Found Guilty, the court is responsible for providing the offender with a sentence.

The goal of sentencing is to provide a deterrent, both to the individual and to society as a whole.



### 1. CONTACT WITH PARTNER

Prior to taking any firm position on pleas or sentence, the Crown Attorney will make every reasonable effort to speak with the woman to ensure her input is considered.

Crown Attorneys will explain the decisions and rationales to the woman as a means of ensuring her safety and maintaining the accountability of the offender, ensuring that she is aware of support and services.

### 2. GENERAL POLICY FOR SENTENCING

In the absence of exceptional or mitigating circumstances, the Crown Attorney will seek jail time for Level One assault, using the Inwood precedent.

The Crown Attorney and the Crown Attorney's department should attempt to consistently recommend to Judges sentences which reflect the nature of the crime and are consistent with the precedent.

The policies on sentencing are premised on the belief that the safety of the woman and the deterrent effects on the assailant are dependent upon appropriate sentences which reflect the policy of vigorous prosecution.

### 3. COURT ORDERS

In the event that a court order is part of the disposition of the case, the Crown Attorney will recommend conditions appropriate to the crime and the safety needs of the woman.

Crown Attorneys will consult with probation officers and appropriate community professionals regarding conditions and wording of conditions. This will assist Crowns in recommending conditions which are effective in maintaining accountability, assisting the offender in receiving treatment and ensuring the safety and protection of the woman and her children.

Crown Attorneys will make efforts to ensure that court orders, particularly probation orders, are worded in a manner which compels the offender to fully and meaningfully comply with the condition. The conditions below are used as they do not allow the offender to circumvent the spirit of the order:

- reporting to a Probation/Parole officer
- non-association with the woman absolutely, directly or indirectly

In situations where there is a concern that the offender will follow her or frequent places she goes to, an additional distance condition is added which prevents the offender from being within one hundred metres of the woman.

Offenders should be advised that following or frequenting will be viewed as association and can be breached as non-compliance with the non-association condition.

to attend and participate in and be amenable to such counselling as directed by the Probation officer

Unless there are assessments of serious alcohol/drug abuse or psychiatric problems, referral should be to a male spousal abuse program if one is available.

Participation and amenability are determined collaboratively by the Probation officer and the group leader(s).

- participate in substance abuse treatment
- any other case specific conditions Specific and clear wording of conditions in orders makes it easier to lay breach charges.
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