

PROVINCE OF ONTARIO  
MINISTRY OF THE ATTORNEY GENERAL

**CROWN POLICY MANUAL**

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March 21, 2005

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**SPOUSE/PARTNER OFFENCES**  
**Also Referred to as DOMESTIC VIOLENCE**

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**PRINCIPLES**

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Domestic Violence is not a private family matter – Domestic Violence offences are criminal acts and should be prosecuted as vigorously as other serious criminal matters. Spousal abuse is a prevalent social problem which affects all of us, including children who have witnessed or been exposed to domestic violence. Spouse/partner offences are often committed in a context where there is a pattern of assaultive and controlling behaviour. This violence goes beyond physical assault and often includes emotional, psychological and sexual abuse that is intended to induce fear, humiliation and powerlessness.

In prosecuting cases of spousal abuse, Crown counsel should be sensitive to the dynamics that exist in families where a spouse is abused. In addition to fear for their personal safety and that of their children, victims of these offences may be under intolerable pressure on account of financial considerations, the need for childcare, disapproval of family members, or fear of being ostracized by the community.

Victims of these offences and their children should be able to live as safely as other members of society. At all stages of the prosecution, including bail hearings, the safety of victims and their families is a paramount factor for Crown counsel to consider in the exercise of discretion.

**SCOPE OF POLICY**

This policy addresses the prosecution of crimes involving the use of physical or sexual force, actual or threatened, in an intimate relationship! Intimate relationships include those between opposite sex and same sex partners. They vary in duration and legal formality, and include current and former dating, common law and married couples.

**Scheduling and Assignment of Cases:** The Crown Attorney for each jurisdiction is to ensure that a system is in place to identify these cases. In those jurisdictions where domestic violence courts exist, a small team of Crown counsel will have carriage of all spouse/partner prosecutions and continuity of counsel should be maintained until the conclusion of the case. Although not all cases of spousal abuse can be assigned in all jurisdictions, it is important that all of these cases be given priority in scheduling.

**Charge Screening and Resolution Discussions:** The policies and practice memoranda on charge screening and resolution discussions apply to cases of spousal abuse just as they do to all other types of charges. The public interest factors in these cases, however, should be weighed in light of the predominant need to protect the victim. Given the prevalence and danger of spouse/partner abuse and the dangers inherent in it, it will usually, although not always, be in the public interest to proceed with these prosecutions in cases where there is a reasonable prospect of conviction.

Counsel should exercise caution in evaluating requests from the victim for withdrawal of charges. Given the dynamics that exist in families where a spouse is abused, victims may be reluctant to continue a prosecution and be under intolerable pressure to withdraw

**Sentencing:** In cases of spousal abuse, Crown counsel should ensure that full submissions are made at sentencing hearings, including victim impact, and that the court is made aware of all factors relevant to the protection and safety of the victim, the victim's family, and the public.