



A Place to Start

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Video

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Handbook

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THE CRIMINAL LAW PROCESS FOR ASSAULTED WOMEN

A Handbook for the Video

A PLACE TO START

Written By: JUDITH BLACKWELL

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The video *A Place to Start* was produced by Yaletown Productions for the British Columbia Institute on Family Violence, a non-profit organization dedicated to eliminating the problem of family violence. This *Handbook* is designed to help readers understand the law, but it does not contain a complete statement of the law as it relates to abused women. Laws across Canada are subject to change and there are variations in procedure from place to place. This Handbook is not legal advice and readers should not depend upon it to solve specific legal problems. For specific legal advice, consult a lawyer. Residents of Quebec should consult the Quebec (French language) version, *Après L'agression*, of this educational package.

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This video and handbook are dedicated to the women survivors who had the courage to share their stories, and to Wendy Harvey for her inspiration and perseverance.

1. INTRODUCTION

This Handbook was written for women who have been assaulted by their husbands or boyfriends and may be going to criminal Court as witnesses. Perhaps you are just now thinking about getting the police involved to help stop the violence in your relationship. Or maybe your partner has already been charged and you've been called to Court as a witness for the prosecution.

This Handbook goes with *A Place to Start*, a 40 minute video about what happens when an assault case goes to Court. The video and Handbook tell you what to expect and what to ask for while your case is going on. They can help you make the right decisions when the time comes. You will also find some practical ideas about what to do if you are threatened or assaulted again.

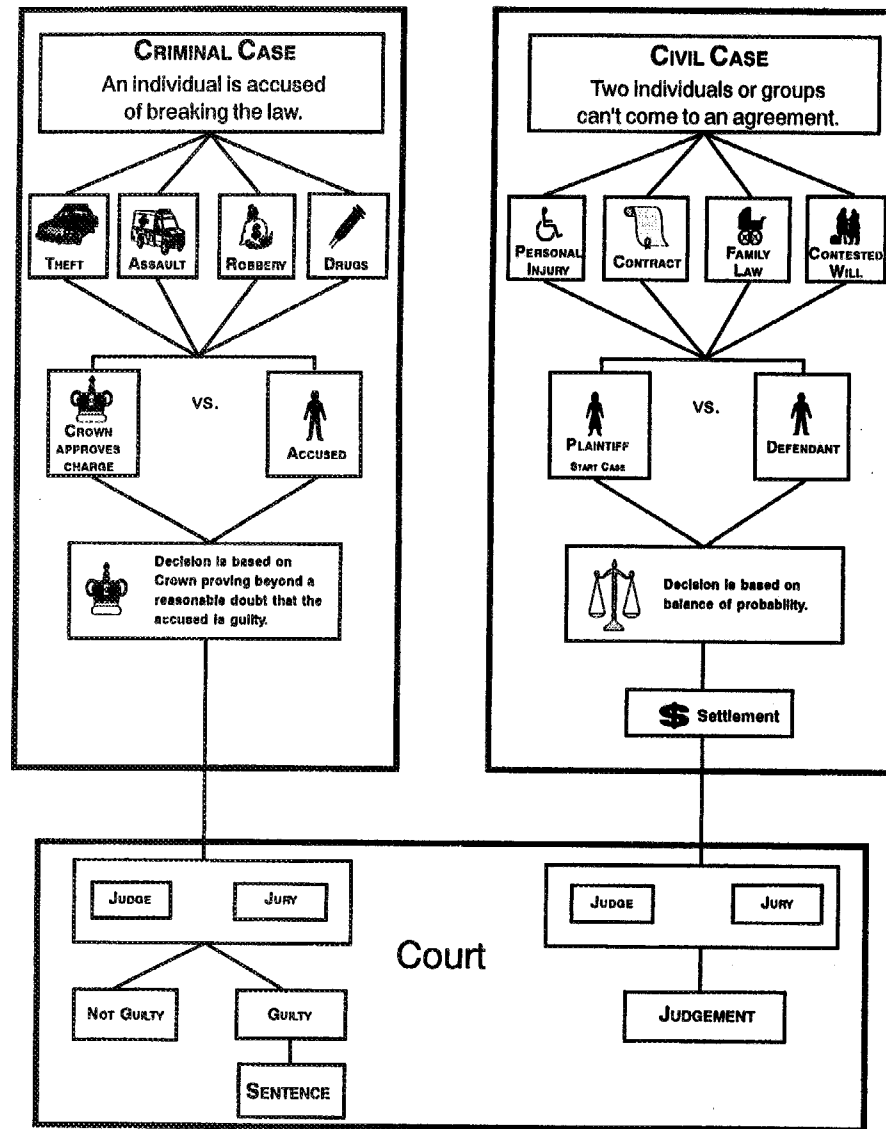
These materials have been produced for use across Canada. Some procedures or language may be different in your province or territory. This Handbook is not legal advice. For specific advice, talk to the Prosecutor handling your case or your personal lawyer, counselor or support person.

CRIMINAL COURT WILL NOT SOLVE YOUR FAMILY PROBLEMS

Criminal Court proceedings are probably only one small part of what's happening to you and your family right now. You may have lots of other problems when you separate from your partner, questions about your rights to support money and

custody of your children, for example. *This video and Handbook are about the criminal Court process, not the civil or family Court process.* The criminal Court will not solve your family law problems. A few simple questions about family law are answered at the end of the Handbook. But for advice on all your other practical and family law questions, you must talk to a counselor and a private or Legal Aid family lawyer.

CRIMINAL vs. CIVIL LAW



WHY SHOULD YOU GET INVOLVED?

Going through criminal proceedings against a husband or boyfriend is a difficult and very personal experience. The women interviewed in *A Place to Start* talk about how they felt and what happened to them. *But their experiences may not be yours.* If you talk to other women at your Transition House you will get some sense of how criminal Court proceedings might turn out. You will probably hear both the good and the bad. But in the end no case will be exactly like yours. And there will be many times when things will happen that are outside your control. Other times you will have to make up your own mind about what you are going to do and how you are going to handle a very difficult situation.

From the time your partner assaults you until your final day in Court can be a long and tiring process. You will probably end up telling your story over and over again to the police, doctors, Prosecutors, support workers and finally the Judge. Last minute delays can often drag the case on for what seems like forever.

Being a Crown witness can be also be confusing and frightening. The legal process seems strange and overwhelming to people who are not used to it. You may have trouble getting information about your case from the police or Prosecutor. And then, if your case goes to trial, you will be expected to get up on the stand and face your attacker in Court. It's especially hard when you are testifying against someone you have cared about and who may still frighten or control you. Sometimes you may just feel like quitting.

YOU ARE NOT ALONE

One in eight Canadian women has been assaulted by her partner. You are not the only one. There is support for you to help stop the violence. If your partner has to face up to his crime, it may help him to stop being violent in the future.

Nobody needs to tell you that living with violence is horrible. It affects your whole life. If you've been really badly hurt, your

memory of the abuse may not even be very clear. You may have trouble putting your thoughts together now. Your emotions can feel like they're trapped in a pinball machine, bouncing all over the place. It could be hard to make decisions. You may wonder why this is happening to you and why things couldn't have been different. It's not unusual to be very mixed up about your feelings for your partner and your future. One day you might be feeling that your relationship is over. The next day you could feel that everything might be okay from now on.

Being all mixed up is *not a weakness of yours.* Just about everybody who goes through a crisis reacts in this way. These feelings are *very normal.* Your confusion will pass with time and you *will* figure out what to do. It may sound like a tired old cliché, but it does take time to heal.

GETTING HELP STANDING UP FOR YOURSELF

Without the help and encouragement of somebody in the legal system, many women would never go through the Court process. But after their case is over, there are women who are grateful they stuck with it. Of course, they didn't always get the results they wanted. Not every man accused of assault is found guilty and not every sentence is as severe as it might be. But several of the woman in the video spoke about how good it felt to speak out publicly. They were glad they had the chance to say that the violence actually did happen and that it was a crime. For some, testifying was a turning point. It was the moment when they stopped making excuses for their partners. Going through the criminal Court process marked the beginning of a new, safer way of life for them.

KNOWING WHAT TO EXPECT

Our complicated justice system makes it hard to feel you really do have some power over how things will work out. It's even harder if you are a native or immigrant woman who comes from a different background or speaks a different language. If you are a woman with a disability or health problem, you may have trouble getting into places or finding things out. For a mother,

just having to look after the children may really limit what you can do and where you can go. But you have the right to be involved in what happens. And you have the right to ask for help at every stage. Whatever you need - whether it's a translator, a wheelchair, a health care attendant or a baby-sitter - ask for it. Not all of these services are available across Canada, but the Court and other support services for victims can usually make special arrangements. Your participation is *very* important and nothing should stand in your way. The more you know about the legal process, the more you *will* be able to make a difference.

ABOUT THE VIDEO

The information in this Handbook is presented in the same order as in the video. If you want to know more about a topic, just stop the video and look for the same title in the Handbook. After you've read that section, then start the video again.

The Handbook itself is organized in question and answer form with a Table of Contents so you can go straight to the sections that interest you. There is also an Index of Legal Terms at the end and a list of other reading material and videos that might help you. To simplify things, throughout the book the man who assaulted you (whether it's your husband, boyfriend, or common law spouse) is called your *partner*.

The assaulted women who agreed to be interviewed in *A Place to Start* deserve a lot of credit. It takes courage to go to Court and testify against your partner. And talking about the experience later in front of a camera was not easy for them. They were willing to be in the video because they had important feelings and common experiences to share with you. Before your own day in Court.

YOUR FEELINGS AND FEARS: SOME QUICK ANSWERS

1. **YOU ASKED FOR IT:** *You feel like it's your fault that you get hit because you provoke him. You are not to blame. There is no excuse for assault. Nobody deserves to be hit.*
2. **IT'S A PRIVATE MATTER:** *You're ashamed to get him (and the family name) into trouble. Assault is not a private matter. It's a criminal offence. Being violent is his shame, not yours. Growing up in a violent home can have very serious effects on your children. There comes a time when your safety and your children's safety are more important than your partner's reputation.*
3. **YOUR PARTNER WILL GET BACK AT YOU:** *You're afraid he will hurt you if you testify against him. Wife assault doesn't get better. It tends to get more frequent and more violent if it's not stopped. He will probably hurt you again even if you don't testify. Something has to force your partner to change. There are ways you can protect yourself from your partner if he continues to threaten you.*
4. **NOBODY WILL BELIEVE YOU:** *You're worried that in Court it will be "his word against yours" and the Judge will believe him. Many men plead guilty and never go to trial. If a trial is held, you are the most important witness. Your partner may seem more powerful and believable to you. But a Judge does not know anything about your partner or your case until evidence is presented in Court. Your partner can be convicted on your word alone. Often your word will be supported by police, medical and other witnesses who looked after you.*

5. BEING A WITNESS IS TOO SCARY: *You're worried that you'll be too nervous to stand up in Court. Your partner may plead guilty and you won't have to go to Court. However, if there is a trial and you are subpoenaed, you must go to Court. Going to Court is scary, but there are programs and people you can talk to. You can get help preparing to be a witness and finding ways to handle the parts that are scary.*

6. YOUR PARTNER WILL GO TO JAIL: *You may feel guilty for putting him there. You may feel terrible about the break-up of your family or his humiliation. What if he gets hurt in jail? And what if he loses his job or stops supporting you? You may have many mixed up feelings. But remember that the police, Prosecutor and Judge were responsible for the criminal charges, and your partner, alone, was responsible for getting into trouble with the law. You are not responsible. It is true that some men do go to jail. But few men convicted of simple assault charges ever go to jail, especially for first offences. The usual sentence is a suspended sentence with probation. Probation may require him to get help for his violence through a counseling program. After a conviction, you have the right to tell the Prosecutor your opinion about what sort of sentence you would like your partner to be given.*

There are no easy answers here. Being a witness in a "wife assault" case *is* scary and difficult. Take the time and get the help you need to sort out your real feelings and decide what you would like to happen.

This Handbook gives you more detailed answers and information. But it's not meant to be legal advice on your individual case. Every case is different. You must talk to the Prosecutor or your private lawyer for specific advice about your case.

2. THE ASSAULT

If I just changed... things would get better and I would never get hit again... and it was my fault! -- Catherine

People on the reserve even heard me screaming for help but they didn't do nothing. They didn't want to call the cops. -- Geraldine

NOBODY DESERVES TO BE HIT

Many women who are assaulted by their partners blame themselves for being hit. But nobody ever deserves to be hit and there is no excuse for it. Often our communities allow violence to go on within the family. They turn away and pretend it isn't happening. Women are taught to hide their injuries and keep their shame a secret. They let their partners control their lives and "walk on eggshells" trying to avoid a conflict that will end in another beating. Their partners wear them down with criticism and abuse until they feel good for nothing. When you feel good for nothing it's hard to find the energy and the spirit to change your situation, to save yourself from being hurt. But if you are an assaulted woman there are ways to protect yourself and people you can turn to for help.

What is abuse?

Abuse is when one person harms another physically, sexually, emotionally or psychologically.

What's the difference between abuse and assault?

Some kinds of abuse are against the law. The crime of **assault** is the most common form of physical or sexual abuse. **Assault** may also be psychological abuse when your partner threatens you and you believe he can and will hurt you.

If you are legally married, is it legal for your husband to assault you?

No. Assault is against the law no matter who the attacker is. Some immigrant women come from countries where wife assault is not against the law or where the police would not help them. But in Canada being married is not a license to hit. The police have a duty to protect you from any attacker, including family members.

Can your partner make excuses for hitting you?

There is no excuse for assaulting women. Your partner may say he was drunk or that you provoked him. Neither excuse is a legal defence. He is responsible for his violence. He might say he hit you in self defence. Ask yourself: who ended up getting hurt? The Courts have found very few women to be physical threats to men. And self defence is only a good defence if the man used the minimum force necessary to protect himself.

What should you do if your partner threatens or assaults you?

Don't wait for a neighbour to overhear the violence and call the police. Act immediately before things get worse. Protect yourself by leaving. Take your children with you if you can. Try to get to a phone to call a neighbour, friend, your nearest women's Shelter, or the police.

What should you say when you phone the police?

Speak clearly and give them your name, address and phone number. Tell the police dispatcher you are being beaten. Say how serious your situation is. **Be sure to say if your life is in danger.** The police may get to you faster. Also let the dispatcher know if:

- ◆ you are hurt and need medical attention
- ◆ weapons are being used or are in the house
- ◆ alcohol and drugs are involved
- ◆ children present are at risk

- ◆ your partner is still in the building

Even if your partner rips the phone cord out of the wall before you've given your address, the police can still trace your call once they're on the line. But *don't wait for the police to come* if you can get away to a safe place before they arrive.

Should you take the children with you?

You have a right to take your children with you. If you fear your partner may abuse them too, it's important to get them away to a safe place. Taking the children is also a good idea because if you later separate from your partner, you will be in a stronger position to apply for custody. After you have left, contact a family lawyer as soon as you can to find out about your custody rights. If you can't take the children with you right away, try to return for them as soon as it is safe.

What should you take with you if you leave home?

If you are fleeing from a dangerous situation, you won't have time to pack. Try to bring your purse with house and car keys, your address/phone number book, personal ID, bank, credit, and medicare cards. You can contact the police about returning later in their company to collect your personal belongings and those of your children. If you have any time to plan or gather some of your things together, here are some suggestions:

- ◆ Cash or a bank access card
- ◆ Special medicine or health certificates for your family
- ◆ Children's birth certificates
- ◆ Financial records, passports, and bank books
- ◆ Your own and your children's clothing, toys, blankets and school books

Can you go back later with police protection?

Yes. You can return with the police to collect your things. They will stand by to "keep the peace" and protect you from your partner if necessary. However, the police will not help you carry your belongings, so bring a friend or relative with you to help.

You will not be able to remove anything that you do not clearly own. You can safely take your clothes and your children's clothes for example. But you cannot remove items like furniture or appliances that you and your partner jointly own, unless he consents. You may have to wait to get these things until your family lawyer has helped you claim them.

If you leave, where can you go?

If you don't have a friend or relative you can stay with, you could rent a motel room. But a better idea is to go to a Transition House (a Shelter) for battered women. Call your local Help or Crisis Line or check for a phone number in the Yellow Pages under Social Services Organizations, Crisis Centres or Women's Organizations. The address of the Transition House or Shelter is confidential, but a Shelter worker will be able to talk to you on the phone and help you get there. Before leaving home, cancel the redial number on your phone so he won't find out your last call. (For more information see *The Transition House* section, page 38)

If you stay, what can you do to make your home safer?

Here are some things you can do to make your home more secure:

- ◆ If your partner is not living with you or has been ordered to stay away, change the locks and make sure all the doors and windows are closed and bolted.
- ◆ Remove any weapons.
- ◆ Keep emergency numbers handy beside the phone: numbers for the police, ambulance, taxi, or a neighbour. Make sure your children know whom they can call in an emergency.
- ◆ Arrange a secret signal with your children to get them out of the house or to have them call a neighbour or police.

- ◆ Tell your neighbours about the situation and ask them to call the police if they hear or see anything suspicious.
- ◆ Make an emergency plan in case your partner tries to attack you again. Plan an escape route. Think ahead of time about safe places you could go.
- ◆ If you have a car, hide an extra key outside so you can get away quickly.
- ◆ Open a bank account in your own name that your partner doesn't know about. Try to save up as much money as you can. Hide cash around the house in a place your partner is not likely to find (wrapped in tinfoil in the freezer for example).
- ◆ Pack a small bag with essential belongings, extra house and car keys, important papers and money. Leave this bag with a trusted friend, relative or neighbour.
- ◆ Talk to the police and explain your fears. They may respond more quickly to your emergency call.

3. THE POLICE

I didn't want the police involved 'cause I didn't think it was anything to do with them... it's a problem that we had between us which we had to work out. -- Marilyn

ASSAULT IS NOT A PRIVATE MATTER

Some women call the police because they are frightened or need help to stop an assault from continuing. After the police have come and the threat is over, they would rather the police just went away. However, police are there to do more than frighten off the attacker. The police act for the State. They have a duty to charge your partner if they have reasonable and probable grounds (a legal term) to believe he has broken the law by assaulting you.

What is the role of the police?

It is the job of the police to investigate whether a crime has taken place. They conduct their investigation by talking to you and your partner (the suspect) and by collecting any evidence they find at the scene.

What will the police do when they arrive?

When the police arrive at the scene of an assault, their first job is to gain control of the situation, to make sure your partner is no longer a danger to you. Their role is to "keep the peace" and then find out what has gone on. Usually the police will interview you and your partner separately, then decide what to do. Let them know if you need a doctor immediately and they will take you to the hospital and interview you later.

What should you tell the police?

Tell them exactly what happened, from beginning to end. Show them any marks or injuries such as cuts, bruises, burns. Point

out torn clothing or damaged furniture or other property. Even if your injuries aren't obvious, the police will be able to recognize that you have been beaten. They are trained to notice if you or your children have been crying, if your hair or makeup are messed up and the house is turned upside down.

Tell the police if your partner has beaten you before, has been charged before or if there are any current court orders protecting you. If you are afraid your partner will attack you again when the police leave, let them know. This helps the police decide whether to arrest him or at least persuade him to leave your home for a period of time. The police can also take you and your children to a safe place.

Tell the police if anyone witnessed the assault on you. This person could be an important witness in any criminal charge against your partner.

What will the police ask your partner?

The police will ask your partner what happened. However, he does not have to answer their questions. Before they start interviewing him, the police must tell him he has the right to remain silent. They also have to inform him that anything he says may be used in Court as evidence against him. They should also tell him he has the right to talk to a lawyer.

How can the police help you?

If you don't feel safe staying at home, ask the police to take you somewhere safe -- a women's Shelter or an address you know your partner won't be able to find.

You can ask the police to make a written report of your case and keep you informed about what happens if they charge your partner. Get the officer's name, telephone number and the case number.

If your partner is arrested, you can tell the police you want a **No Contact Order** before he is released from jail (see section on

The Bail Hearing, page 29). A No Contact Order can prevent your partner from coming near you or harming you.

Do you have to leave home if you don't want to?

No. The police cannot force you to leave if you were not the violent person. They can give you advice about what to do but can only remove you from the house if they arrest you for a crime. However, if they want you to leave it will be for your own safety. See pages 33 and 72 (*More Questions About Family Law*) for more information about getting a civil restraining order to protect yourself.

If you don't call the police right away, can you call them some time after the assault?

Yes. But if you delay your partner is not as likely to be charged. One reason is that the evidence will not be as "fresh" and will be harder to collect and present at a trial. Generally, however, it is better to report a crime late than not at all.

4. THE STATEMENT TO POLICE

A statement is just one person's description of what happened. The police will ask you questions and write down your answers. Then they will ask you to sign it. Sometimes you will write out your own statement. Take the time to read your statement over carefully before you sign it. Don't be upset if you can't recall every detail and the exact order of events. Before the police arrived, your partner may have hurt or frightened you. People under that kind of stress can't always remember the exact chain of events. Just describe what happened as best you can.

What kind of information goes into the statement to police?

Your written statement will include things like:

- ◆ What happened leading up to the assault.
- ◆ The place, time and date of the assault.
- ◆ A detailed description of the assault on you: for example, the number of blows, what part of your body was hit, whether any weapons were used.
- ◆ What you did after the assault (e.g. who you called for help, where you went).
- ◆ What injuries and medical help you received.
- ◆ Whether you have been assaulted by your partner before and what usually happens.
- ◆ Whether there have been any Court proceedings before.
- ◆ All of the people involved (their names, addresses and phone numbers).

- ◆ Your present fears about safety for yourself and your children.

What is a statement used for?

A statement is used for a number of things. Its most important uses are:

- ◆ **To lay the charge against your partner.** It helps the police and Prosecutor decide exactly what crime has occurred.
- ◆ **To help investigate the crime.** Your statement gives the police information about other witnesses (like doctors, neighbours) and types of evidence (broken property, damaged clothing) that will help prove the case.
- ◆ **To protect you.** The police can read your statement and decide what needs to be done to keep you safe until trial. For example, the police might take you to a Transition House or arrange with the Prosecutor to get a Court order (e.g. a No Contact Order).
- ◆ **To give to your partner's Defence lawyer.** Your partner's lawyer can then help him decide whether or not to plead guilty. After getting the advice of their lawyers, many men do plead guilty at this point.
- ◆ **To refresh your memory at trial.** If you do go to Court as a witness (perhaps many months later), it serves as a good record of what went on. You will be able to refresh your memory by reading the statement just before the trial. Ask the police or Prosecutor for a copy of your statement so you can take it home and look it over carefully. You may also be able to look at your statement while you are in the witness box testifying.

What happens if you make a mistake in your statement?

Making an honest error in your statement is not a criminal offence. If you know you have made a mistake, let the police

and the Prosecutor know as soon as possible. An accurate statement helps them prepare the case properly.

What happens if you don't tell the truth in your statement?

You may have personal reasons for not telling the truth. You might want to protect your partner. Or maybe you have reasons to get back at him. Whatever your reasons for lying, understand that it is a criminal offence to deliberately mislead the police in their investigation. If you have lied in your statement, you should talk to a private or Legal Aid lawyer about what to do.

It is important for the police and Prosecutor to know the truth well before the trial date. They rely on your evidence to proceed (or not to proceed) with the charge. You can always go back to the police or Prosecutor and tell them you want to change your statement. If you do this you are not likely to be charged but you should get the advice of your own lawyer before you do anything about changing your statement.

If the charge goes to trial, another time to correct the information is when you testify. When you are a witness, the evidence you give is sworn and you must tell the truth or you could be charged with **perjury**. One other reason for telling the truth right from the start is that if the case goes to court, the Defence lawyer will know about how your statements differ or will point out the difference between your statement and your testimony. The Defence will focus on these differences to try and prove that you are not a reliable witness.

5. THE EVIDENCE

They took me downstairs to get some photographs of the way I looked so there would be some actual evidence that he had beaten me up... At the actual time... there was nobody else around, so if there wasn't some kind of evidence it would have been just his word against mine. -- Marilyn

NOT JUST HIS WORD AGAINST YOURS

In a crisis it's hard to think ahead. You're working so hard on just surviving. But if your partner is going to get convicted of assault, it's important to give the police as much information about the assault as you can. He could be convicted on the evidence of your word alone. But it's a much better case if you have something to show or somebody else to vouch for your story.

What is evidence?

Evidence is proof. It is the kind of information the Judge needs to decide whether or not your partner is guilty of assault. When you talk to police you give them a lot of information that will be useful later on. Your statement can be evidence. What you say as a witness in Court is evidence. Evidence can also be things like photographs, documents, clothing, and weapons.

How can you help the police collect evidence of the assault?

Before you call the police or get medical help, don't change or wash the clothes you were wearing when you were assaulted. The police may want to preserve clothing that is damaged or soiled as important evidence at a later trial. They may also want to take some pictures of your injuries and your home if things have been thrown around and broken.

Can you take your own pictures as evidence?

Yes. You can photograph your own injuries or the damage to your home. However, it may be helpful to have a friend or support worker take these pictures. The person who takes the pictures will probably have to go to Court as a witness if your partner is charged.

Should you see a doctor even if your injuries are minor?

Yes. See a doctor even if your injuries aren't visible. Go right away and explain how you got these injuries. Don't wait for bruises to develop before you go. Medical evidence is very important in any later trial. The longer you delay, the weaker your case will be. The police can ask the doctor for a medical report and test or X-ray results to prove how you got hurt. Later the Defence lawyer may ask to see the medical file too.

What if you hide the evidence or don't tell the truth to police?

You may feel you have good reasons for lying or hiding evidence. A lot of women really don't want their partners to be charged. However, you should know that if you mislead the police or the Prosecutor you could be charged with a criminal offence such as attempting to obstruct justice or public mischief.

6. LAYING CHARGES

THE DECISION TO CHARGE

When you are upset and hurting, you are not in the best shape to decide about charging your partner. Fortunately you don't have to make that decision. Depending on which province or territory you live in, **the decision to charge is the responsibility of the police or the Crown Prosecutor.** If they refuse to lay a charge, you can lay it yourself but this is rarely necessary.

In the past it wasn't always clear to women that the police or Prosecutor should be laying any charges. Policies in different regions varied and women often felt that it was up to them to lay or drop charges against their partners. They would feel guilty or disloyal. Often their partners would intimidate and harass them to drop the charges.

Now that the responsibility for charging clearly lies with the police or Prosecutor, it would be wonderful to say that everything has changed. That there is no more guilt, pressure or intimidation. But some police officers still ask the question: "Do you want charges laid?" and it may feel like you are the one making the decision. And, anyway, most women still feel badly about being the witness that helps to convict their partner of a crime. The fact is that the Prosecutor usually has a hard time proving the case against your partner without you as main witness. Often you are the only one who can give strong enough evidence to convict him. So sometimes you will be pressured and intimidated by your partner not to testify. You have to know what to do if this happens. Keep in touch with the police and let them know how your partner is reacting. You have the right to tell them how you are being pressured and what you would like to see happen in your case.

What is a crime?

A crime is an act or behaviour that is prohibited under the **Criminal Code of Canada** (and a number of other laws). If a person is charged and found guilty of a crime he or she can be sentenced by a Judge in Court. Physical abuse is assault. Assault is a crime under the **Criminal Code**. Crimes under the **Criminal Code** are numbered. Look at your subpoena (Court notice) or ask the Prosecutor for the number of the crime your partner has been charged with. Then, if you want, you can look the crime up in the **Criminal Code**. You can find a copy of the **Criminal Code** at the Prosecutor's office, your local civic or college/ university library or some Courthouse libraries.

What is a charge?

A charge is a formal accusation of a crime.

What kind of charges can be laid when an assault takes place?

Even if you are legally married, your partner can be charged with assault or another criminal charge. There are several kinds of assault and related charges. Some are more serious than others. The most common charges are listed below.

1. **Common assault** is the least serious assault. This includes any kind of hitting, striking, slapping or pushing which results in no injury or only minor injuries (such as bruises). If your partner threatens to hurt you and is close enough to carry out the threat, then this can also be common assault. A threat from far away (over the telephone for example) is not common assault but may be another kind of crime.
2. **Assault with a weapon** involves your partner using a weapon (a gun, a stick or a knife for example) to threaten or hurt you.
3. **Assault causing bodily harm** is the charge used when you receive an injury that needs medical attention and takes time to heal.

- 4. **Aggravated assault** is the most serious kind of assault. Your partner will be charged with aggravated assault if he wounds, maims or disfigures you or endangers your life.
- 5. **Sexual assault** is the charge used when the assault involves some form of forced sexual contact. There are three types of sexual assault, from the least to the most serious. Even if you are married, your partner has no right to touch you sexually unless you freely agree.
- 6. **Attempted murder** is the charge used when your partner tries to kill you.
- 7. **Threatening death or serious bodily harm** is the charge used when your partner threatens to kill you or seriously harm you.
- 8. **Criminal Harassment or Stalking** is the charge used when your partner repeatedly follows, watches or interferes with you in a threatening way.

What does it mean to be arrested?

Being arrested is not the same as being charged. Arresting means taking someone into custody or jail.

Will your partner be arrested?

Not always. The police may not arrest your partner. They may persuade him to leave your home voluntarily. Then you can decide whether to stay or go somewhere safe. Other times the police will decide to arrest your partner to protect you from further injury. For example, if your partner is drunk or still acting abusively toward you when they arrive at your home, the police may arrest him and a **No Contact Order** (see page 30) can be a condition of his release. If you partner has a serious past criminal record of violent crimes he will nearly always be arrested. If your partner seems calm now that the police have arrived but you are afraid he will attack you again, let the police

know. Say you want your partner arrested so that bail terms such as a **No Contact Order** can be imposed.

The police have the power to keep your partner in jail overnight or for less than 24 hours without actually charging him. However, the police must bring your partner before a Justice of the Peace as soon as possible in order to decide whether he should be released or charged and then held until a **bail hearing**.

What kind of charging documents can your partner receive?

Your partner can receive formal notice that he is charged in a number of ways:

If your partner is arrested he may be released with a **promise to appear** in Court at a certain day and time. He could also be released on his own **recognizance** which sets a date and time to appear as well as conditions that he must obey while awaiting trial. Another kind of charging document is an **appearance notice** which requires your partner to go to Court on a certain day to face the charge.

If the decision to charge occurs later he may be **served** (officially delivered) a **summons** by a police officer, commanding him to attend Court on a certain day. The police may ask you where your partner can be found so that they can personally deliver the summons to him.

Do charges always end up in Court?

Not always. Once the charge is laid, the police may get together with the Crown Prosecutor to see if there is enough evidence to take the case to Court. Sometimes, if there is not enough evidence, the charges are withdrawn.

How do you find out if charges have been laid?

Get the name and phone number of the police officer who interviewed you and find out the case report number. Ask the

police for the telephone number of the Prosecutor's office and the Court registry so you can call and see if charges are going ahead.

If the police don't lay a charge can you lay it?

Yes. Anyone who has good reason to believe a crime was committed can lay a criminal charge. However, in most cases the Crown Prosecutor does not have to proceed with the charge or can **stay** the charge (stop it) if it doesn't seem appropriate. If the police have refused to lay a charge, first insist on talking to a more senior officer at the police station and repeat your request that a charge be laid. Or go to the Crown Prosecutor directly. Often you can get the help of Transition House staff or a Victim Assistance worker to get a charge laid.

How do you lay a charge?

To lay a charge you must **lay an information** (the term for pressing charges) before a **Justice of the Peace (JP)**. To lay an information, call either the police or the provincial Courthouse to find out where the nearest JP's office is. Call this office to find out when you can go down to lay a charge.

It helps to be well prepared before you go to lay the information. If the police came to the scene, get the police report or case number from them. Write down in your own words exactly what happened and bring your notes with you when you go to lay the information. If there were witnesses to the assault, bring them along or note down their names and addresses. Also bring with you any photographs of your injuries that prove the assault took place. Bring a friend or advocate such as a Shelter worker with you for emotional support.

When you go before the **Justice of the Peace** you will explain in detail how the assault took place. You should also tell the JP that you intend to carry through with this charge and testify in Court. Let the JP know if you are afraid for your safety.

If the JP decides there is good reason to lay a charge, he or she will decide what charge is best and then have the charge typed up on a special form. After you have read it carefully you will be asked to sign it and **swear** before the Justice of the Peace that the information on the form is true. Ask the JP for a **No Contact Order** if you want your partner to stay away from you from now until the guilty plea or trial. Procedures after this vary in different provinces and territories. In some regions, the Crown Prosecutor will either stay (stop) or conduct the case. Elsewhere you will have to hire a private lawyer to do the prosecution.

Why is it better to get the police or Prosecutor to lay the charge rather than you?

Charging your partner on your own is very difficult. It's always better if you can give a statement to the police and have them (or the Prosecutor) lay the charge. If the police lay the charge, they will do the investigation, gather the evidence and appear as witnesses against your partner if the case goes to trial. The Crown Prosecutor will take the case to Court.

If you laid the charge, can you also drop the charge?

No. Once a charge is laid, the State (the Crown Prosecutor) decides whether it can be dropped.

Can you be charged with assault?

Sometimes your partner will threaten to *counter* charge you with assault if he is charged. While this is possible, it rarely happens. Usually the police or the JP will recognize that this is just his way of trying to frighten you.

On the other hand, assault laws apply to everyone. If you assault your partner or anyone else, you could be charged and go through the same criminal legal process as described for your partner.

If you are charged with assault, contact a criminal lawyer as soon as possible. If you need help finding a lawyer, look through the Yellow Pages or call your local Legal Aid office.

Even if you are not eligible for their help, the Legal Aid office may be able to help you find a private lawyer.

7. THE BAIL HEARING

The No Contact Order did make me feel some relief. But at the same time, it was like a death, like an ending, like a finish because there was no more communicating. --Lenore

It made me feel safe because I know he would try to come after me. I thought he'd be mad at me and try to do something crazy to me and the children. -- Geraldine

PROTECTION FOR YOU

If your partner has been arrested and kept in jail, he has the right to a bail hearing as soon as possible, usually within 24 hours. At the bail hearing the Crown Prosecutor (or sometimes a police officer) has to show the Judge or Justice of the Peace why your partner (the **Accused**) should stay in custody or be released (**judicial interim release**) on certain conditions. At the hearing the Prosecutor and your partner (or his lawyer) will tell the Judge what they know about the charge and the background to your relationship.

Most of the time people charged with an offence like common assault are not kept in jail until trial. Usually an Accused person is released with conditions until trial. These conditions are meant to keep your partner from harming you again and to make sure he shows up for trial. He might be ordered, for example, to stay away from alcohol or firearms, remain within the county, to have no contact with you and report regularly to a bail supervisor (a probation officer). Sometimes a sum of money or piece of property will be given up to the Court if he disobeys (**breaches**) his conditions. In other cases, he might be sent back to jail.

Tell the Prosecutor if you want protection. You can also find out from the police when the bail hearing is taking place and attend. If you don't want to attend, call the Crown Prosecutor to find out

what happened. You should ask for a copy of the Judge's or JP's order.

What is a No Contact Order?

One of the conditions for release at a bail hearing may be a **No Contact Order**. This orders your partner to have no contact with you until the case is over. This kind of order can be extended to include staying away from you completely (a **No Go Order** or a **Non Attendance Order**) and can mean, for example: no phone calls, letters, friends passing on messages or lawyers calling on his behalf. In some regions this order is automatically placed on your partner if he has been arrested.

You can ask the police or the Crown Prosecutor for a No Contact Order if you think your partner is still a threat to you. The Prosecutor will decide whether to ask for this order. But you have the right to let your wishes be known. The order can be very specific. If you think your partner might follow you around or wait for you outside your home, work or the children's school, ask for an order that he stay away from these locations. If you think he may try to get to you by harassing your friends or family, ask for an order that he have *no contact with you either directly or indirectly*. Ask for a copy of this order and keep it with you at all times.

What if your partner disobeys the No Contact Order?

If your partner still tries to contact you or threatens you, there are a number of things you can do:

- ◆ Call the police and insist that they enforce the No Contact Order by arresting your partner. Keep a written record of each time he disobeys the order and each time you call the police. He doesn't have to assault you again to be arrested. He may be arrested again for simply breaching (disobeying) his bail terms by contacting you.

- ◆ Understand that even if you *allow* your partner to have contact with you, the order is still in force. Only the Court can change the order. If your partner threatens or attacks you again, of course you are still entitled to police protection. But the fact is that the police in your region may not respond so quickly to your call or help you if they think you've agreed to meet or communicate with him. Your partner may tell the police you agreed to contact. If this is true, it does not make the No Contact Order invalid. Your partner can still be arrested for breaching his bail order. If what he says is not true (you did not agree to the contact), make sure you tell the police.
- ◆ If you still feel unsafe, go to a Transition House (or Shelter) or stay with friends where your partner can't find you.

Can the No Contact Order be changed before the trial?

Yes. Your partner can go back to Court and apply to have the conditions of the No Contact Order changed. If your partner goes to Court to ask for a change, you and the Prosecutor will attend Court to either agree or disagree with the request for change.

Your partner may want to change the conditions so that he can see his children. You may decide that's okay. But don't let your partner use your children to make you feel guilty about your separation. You don't have to put yourself at risk for their sake. If you think it is safe for them to see their Dad, you can arrange to put the children in touch with your partner through a third person like a friend or relative.

Does the No Contact Order stay in effect after a guilty plea or trial?

The No Contact Order is only good until the Judge passes sentence. However, a No Contact Order can become part of the Judge's sentence as a condition of probation. Be sure to let the Prosecutor know if you want a No Contact Order to be part of your partner's sentence.

What other Court orders can protect you?

If a No Contact Order is not made, there are some other options available to protect you. You can apply for a **Peace Bond** in criminal Court. Or you can go to a family lawyer and civil Court to apply for a **restraining order** or an order giving you **exclusive possession** of the family home. (See page 33)

What is a Peace Bond (recognizance order)?

If you are scared of your partner your best plan is to call the police right away. One other option under our criminal law is to apply for a **Peace Bond**. However, there are problems enforcing Peace Bonds in many parts of the country. If you have been assaulted or threatened, the police and Prosecutor will probably want to lay a charge. However, they can help you apply for a Peace Bond if they think it is the right thing to do.

A Peace Bond can be obtained under the **Criminal Code** (s. 810). It can last for up to a year and orders your partner to "keep the peace" by signing a legal promise that says things like:

- ◆ he won't harm you or threaten you
- ◆ he won't have any contact with you
- ◆ he will stay away from your work or home
- ◆ he won't telephone you
- ◆ he will pay the Court some money if he disobeys the Peace Bond

If your partner disobeys these orders, then he can be arrested and charged with the criminal offence of breaking the Peace Bond. He could also lose any money he has paid the Court.

Even if you haven't already been assaulted, you can apply to a Judge for a Peace Bond. You must show the Judge you have good reason to fear that you, your children or your property will be harmed by your partner. A Peace Bond is like the No Contact Order described earlier. Keep a copy of it with you at all times. Call the police if your partner breaks any of its conditions.

Can you get a Peace Bond on your own?

Yes. If you decide you want a Peace Bond and the police or Prosecutor won't help, you can apply for a Peace Bond on your own. You can go to a Justice of the Peace and **lay an information**, much in the same way as you lay a charge. (See page 26)

What are some problems with Peace Bonds?

The idea of a Peace Bond may appeal to you. You may not have to go to Court as a witness and your partner will not get a criminal record. However there are some problems with Peace Bonds:

- ◆ your partner may dispute or disagree with the Peace Bond and you will have to go to Court as a witness anyway.
- ◆ Peace Bonds are not always well enforced. In other words, if your partner breaks the Bond, the police may not always arrest him.
- ◆ it might take several weeks before you can get a Peace Bond.
- ◆ your partner does not have to admit he assaulted you and face up to the fact that he committed a crime.
- ◆ a Peace Bond under s. 810 of the **Criminal Code** only lasts for up to one year.

What is a restraining order?

You can't get a **restraining order** from a criminal Court. A restraining order (also called an order of prohibition/ non-molestation) is a civil Court order telling your partner not to molest, annoy or harass you or your children. It is used when you are separated from your partner. Because it is not a criminal Court order, you need to have a private (or Legal Aid) family lawyer help you apply for one. A restraining order is often part of an application to Court for things like divorce, custody, maintenance (support money) and the right to live in your home or divide up your property.

How can you get a restraining order?

Your family lawyer can go to civil Court and get a restraining order for you right away. The Court will generally give you a restraining order if your partner has physically abused you and sometimes if there has been emotional abuse. You will likely have to swear a written statement (an affidavit) setting out examples of your partner's abusive behaviour. Sometimes you will have to go to civil Court as a witness to tell the Judge personally. Sometimes you can get a restraining order even if your partner is not present in Court. He will then be told later about the order.

Once the order is made, your partner will be given formal notice of it. He can be arrested if he breaks the conditions and he can be charged with **contempt of Court**. A restraining order is still a serious order but it is not a criminal Court order. If your partner is found guilty, he will usually receive a fine or a warning. If you and your partner get back together, the order is no longer good. Once again, it's up to you to enforce this order. Keep a copy of the order on you at all times. Call the police and your lawyer if your partner breaks the order.

Can the Court tell your partner to get out of your home?

Sometimes. In certain cases you can apply for a special kind of restraining order that gives you **exclusive possession (or sole occupancy)** of your home (the right to live in it). This order stops your partner from coming around or entering your home for a certain period of time. You are more likely to get this order if you are living at home with your children. Again, this is not a criminal Court order. You will need the help of your own family lawyer to apply for this order.

If you are a native woman living on a reserve, different laws apply and you won't be able to get an exclusive possession order. You may have to ask the Band Council to remove your partner from the home and this could be difficult. Get the specific advice of your lawyer or support worker.

8. VICTIM SERVICES

The Victim Assistance lady would come by and visit me because she knew what I was going through... And I wasn't the only one. -- Geraldine

YOU ARE NOT ALONE

Just when everyone is telling you to stand up for yourself and be strong, you're being called "the victim"! It's true you need support to get out of violent relationships. But it's also important to stop thinking of yourself as a victim. You are not somebody who is always bound to get hurt one way or another. It doesn't have to be that way. And there are a lot of services around to help you stop being a victim, to help you get back on your feet again.

Some communities have Victim Assistance workers available to give you advice while you're going through your case. Many of you will have seen the video *A Place to Start* through your Victim Assistance worker. In some regions where there are no VA workers, then police officers, social workers and other staff or volunteers will help you through the process. Ask if you can go on a tour of the Courthouse and watch some other trials before you have to go to Court yourself.

The more you know about the legal system the better. There may be things you don't understand or frustrating delays. The criminal Courts can be frightening places and the role of witness is not a comfortable one. In the end, you may not like the result, the verdict, or the sentence. Our legal system is not a perfect one. It balances your interests and society's interests (the right to protection and safety) against the right of your partner to a fair trial. Victim Assistance workers should be able to give you honest and truthful answers about what to expect when you testify at your partner's trial.

At this stage in your life, you might have lots of other questions about money, housing, jobs, and counseling for yourself and your kids. You will probably also need legal advice about your marriage, your property, or child custody. People who do the job of Victim Assistance workers can let you know where to go to get help with these problems.

Can you get compensation from the government for being a victim of assault?

Yes, if your province or territory has a **criminal injuries compensation** program. If you are a victim of crime, this government program may pay you an award for things like medical costs and time off work. You might also get money to compensate for your pain and suffering. The awards do not tend to be as high as the judgments in civil Court. But the application process is usually simpler and there is no cost to you. If you are back living with your partner you will probably be refused an award. Awards are not given if the attacker could benefit from them. Check with your Victim Assistance worker or other support worker to find out more about these programs and how to apply.

Can you get money from your partner to pay for your injuries?

Yes. You can sue your partner in civil Court for assault. For a **civil suit** you will need your own lawyer to help you sue your partner for **damages** (money). Civil suits are usually quite complicated, costly and may take a long time to be finished. If you win your suit, you will still have to collect your money from your partner, and that may be difficult. It's usually only a good idea to sue someone who can pay you. There are also time limits on civil suits. If you have a family lawyer looking after your other problems, ask about the possibility of a civil suit. If you win your civil suit and have already got an award from the criminal injuries compensation program you may have to pay back that award.

What if your partner is acquitted in criminal Court?

You can still apply to criminal injuries compensation programs. Talk to your lawyer about your chances of successfully suing your partner in civil Court.

9. THE TRANSITION HOUSE

When she sees that another woman has gone through much of the same stuff that she has, she begins to see herself in that woman and recognizes that this is not right and this woman didn't deserve it. So she doesn't either. -- Shelter worker

SUPPORT FROM OTHER WOMEN

Transition Houses are safe places or Shelters where battered women and their children can go in an emergency. These Houses are run by women who will help you look after your family, listen to you and give you advice about your situation. They will not talk about your problems with anyone else unless you say it's okay. During this time you will be able to recover from your assault and decide what you want to do next.

At a Transition House you can meet other women who have been through the same thing. Some may have already gone to Court. It helps to talk to them and realize you are not the only woman who has been assaulted. If you decide to return to your partner you'll find that you are not the only one who makes this decision. The staff at Transition Houses are not there to judge or blame you. They are there to help. Often they act as "Victim Assistance" workers, going to Court with you, helping you get financial help, and giving you information and support about the legal system and other services you might need.

Even if you don't go to stay at a Transition House, *you can still call them for information or advice.* Transition House staff will talk to you on the phone or meet with you. You might want to take part in one of their women's support groups or other helpful programs for yourself or your kids.

How do you find a Transition House?

Ask the police or call the Help or Crisis Line. Look in the Yellow Pages under Transition Houses, Social Services Organizations, Crisis Centres or Women's Organizations.

If you live in the country will you be able to find a Transition House?

There are Transition Houses throughout Canada. You may have to travel some distance to reach the one nearest to you. In rural areas there are often private **safe houses**, secret addresses where individual people will take you in and keep you safe.

Does it cost anything to stay at a Transition House?

No. You can stay there for free. You will also get food and clothing and other things you need. If you are able, you will be expected to help with some of the chores and cooking.

How long can you stay?

Most Transition Houses will let you stay for 4 to 6 weeks. Then you will have to find your own place to live unless **Second Stage Housing** is available. Staff at the Transition House will help you find a place to live and apply for financial help if you need it.

What is Second Stage Housing?

Some regions have longer term **Second Stage Housing** for women who do not return to their partners after they leave the Transition House. You pay a small amount of rent to live in an apartment complex or share a house which is safe. There you will get a lot of emotional support and help in adjusting to life on your own, getting a job or looking after your children.

Will you be safe at a Transition House?

Transition Houses have a secret location so your partner shouldn't be able to find you. But if you live in a small town, that location may be well known. Shelters should be secure from

break-ins, however, and have quick access to the police. Many abusive men don't like to beat their partners in public. Your partner may be reluctant to attack you when you are not in private with him. In any case, you will be safer with other women at the Shelter than if you were living alone. If you don't think it's safe to go to the Transition House, tell the police. Find somewhere else to go -- for example, another Transition House or a relative's home in another town.

10. PREPARING FOR COURT

We don't proceed with criminal charges in order to break up a family... we want to help your family. We want to stop the violence. -- Crown Prosecutor

OUR CRIMINAL LEGAL SYSTEM

Your partner is being charged under one of the criminal laws of Canada (the Criminal Code). If you want to look up the charge or read the same law books the lawyers use, go to the Law Section of your local civic or college/university library. Some Courthouse libraries will also give you access to their books.

Criminal laws are passed in order to protect both you, the individual, and society against harm. When someone commits a crime, we consider that the State is injured too. That is why the lawyer who prosecutes the case (the Crown) acts for the State, not you. The Crown Prosecutor is not your lawyer. Sometimes you won't like the Prosecutor of your case. *That's okay.* A Prosecutor is not your counselor or advisor. The Prosecutor's job is very clear: to protect you and society from harm, often by getting your partner convicted. It's not a bad idea to plan on seeing a counselor or therapist right after your appointment with the Prosecutor or after your Court dates. You might have a lot of feelings to express and emotional needs that won't be satisfied talking to the Prosecutor.

Our Courts are based on the **adversary system**. The adversary system means that lawyers for each side present opposing evidence and arguments to a Judge (or sometimes also a Jury). Then the Judge or Jury decides on a verdict. Judges do not investigate the case or add information. Judges have to make up their mind based on the evidence presented to them in Court.

Your partner will have to hire a private lawyer to defend him (or get a Legal Aid lawyer). The Defence lawyer acts only for the Accused person but has to follow certain professional ethics and rules of Court aimed at providing a fair result.

What does the Prosecutor have to prove?

Under our criminal law system, the Prosecutor must prove the Accused (your partner) guilty by proving the case **beyond a reasonable doubt**. This **burden of proof** (responsibility) is a heavy one. It's designed to prevent innocent people from being convicted of crimes. Sometimes, the result is that guilty people get off.

What legal rights does your partner have?

While he is going through the Court process, your partner is guaranteed certain **legal rights**. For example, he has the **right to be represented by a lawyer**, although some men decide to represent themselves.

He has the **right to remain silent** which means he does not have to say anything in Court. It's often a good Defence strategy for your partner to stay out of the witness box. Once he agrees to testify, he swears to tell the truth. And the truth about what happened could convict him. If he takes the witness stand, he can also be asked about any previous criminal record. A criminal record may give the Judge or Jury reason to doubt his character or reputation for telling the truth. If the Defence lawyer thinks the Prosecutor has a weak case, he or she will usually advise your partner to remain silent. The Crown Prosecutor then has to prove the case beyond a reasonable doubt without the benefit of hearing from the main actor (your partner).

How do you find out about when you will be a witness?

You should receive a **subpoena** or other Court notice, a document commanding you to attend Court at a certain date and time. If you want to prove to your partner that you have no choice about being a witness, show him this document.

If you are working, speak to your employer about getting time off work. Your employer must allow you the time off but does not have to pay you unless he agrees or you have a union contract that says so. Ask your support worker or the Prosecutor for help arranging child care if you need it. Ask the Prosecutor how long you will need the baby-sitter.

What if you can't attend Court on the day of trial?

If there is a very serious reason why you can't be there, contact the Prosecutor as soon as possible. The Prosecutor may be able to change the date of trial.

Can your children be called as witnesses?

It's possible, but rarely happens. Anybody with valuable information about the charge can be called to Court by either the Prosecutor or the Defence. If your children heard or saw something the Judge should know about (and there's no other way to present the information), your children might have to testify. Ask the Prosecutor if your children may be witnesses. If they may be called as witnesses, discuss your concerns.

What if you want the charges dropped?

There are lots of reasons why you may feel this way. Your partner may be threatening you. You may not want to break up your family. Since the charge, you may have got back together with him and now hope that things will be okay.

Once a charge is laid, you do not have the power to drop charges. Even if you and your partner have got back together, the Crown Prosecutor will not likely drop the charge.

You should let the Crown Prosecutor know how you are feeling. Tell the Prosecutor what pressure you are getting from your partner or other family members. Although proceeding with the charge is not your decision, you have the right to give the Crown Prosecutor information that so importantly affects your life. Although you don't have any direct power to get charges dropped, it might help you to know that going to Court may be a

good thing for your partner. It might make him think twice about hitting you again. If he is found guilty, he could be referred to a treatment program to help him stop being violent.

What if your partner is harassing you to drop charges?

Tell your partner you don't have the power to drop charges. He may not believe you. He may still harass you because he knows you will be going to Court as a witness against him. Your partner may try to bully and threaten you to refuse to testify. This behaviour is a crime. Your partner could be charged with an offence such as **Intimidation, Uttering Threats, Obstruction of Justice** or **Disobeying an order of the Court** if he has been ordered to have no contact with you.

Contact the police or the Crown Prosecutor to let them know what he is doing. Try to keep notes or a written record of his harassment, like threatening phone calls, letters or actions against you. The police can use this record as evidence if they charge him. Understand that these records may be given to the Defence lawyer or your partner later on.

What can you do to prepare for the trial?

- ◆ Get a copy of your statement to police and read it over.
- ◆ Have a look at any notes you made at the time of the assault. Ask the Prosecutor if you can bring these notes into Court.
- ◆ Go over what happened and try to put the events in order in your mind. Be sure you know the date, time and place of the assault. Keep in mind that you are a *witness*. *It's not up to you to prove the case against your partner.*
- ◆ Call the Prosecutor to arrange a meeting before trial.
- ◆ Let the Prosecutor know if you need an interpreter or translator.

- ◆ Bring along any important documents and your subpoena to your meetings with the Prosecutor and to the trial.

OUR CRIMINAL COURTS

There are several different levels of criminal trial Courts. These Courts are called by different names in various provinces or territories. For simplicity's sake, let's just say that the less serious charges (called **summary conviction**) are heard in the lower Courts, while the more serious charges (called **indictable**) give the Accused the choice of going to a higher Court with different procedures. This choice is called an **election**. Summary conviction offences carry lighter sentences than indictable offences.

Some charges are **mixed** offences which means that the Crown gets to choose whether to prosecute them as summary or indictable. The Crown makes a decision based on how serious the attack was. You will need to talk to the Prosecutor to find out what the Court procedure will be in your case. For example, usually a trial for **common assault** will be heard in a lower Court and the procedure will be simpler. On the other hand, **attempted murder** is a serious charge that would involve a more complicated procedure and eventually go to a higher Court.

Court procedures may be difficult to follow. But the important thing from your point of view is knowing what the steps are and how long it will take between these steps. For specific information you must talk to the Crown Prosecutor or your Victim Assistance or other support worker.

A lot of things can change between the time you were assaulted and the final day in Court. Adjournments and delays for one reason or another can drag the case out for many months. It's not unusual for your partner to appear in Court three or more times before he actually goes to trial. It helps to understand the reasons for each Court appearance. The following is a guide to some of the Court appearances you can expect. You can attend

any of these Court appearances but you aren't actually required to attend unless you receive a subpoena. Find out about the times and dates from the police, the Crown Prosecutor or the Court registry.

1. The bail hearing (See page 29)

Bail hearings are held in order to protect you from the Accused or to make sure he does not try to flee or avoid facing the charge. However, a bail hearing does not always happen. Sometimes an Accused person is arrested and then released without a bail hearing. Sometimes the bail hearing is actually the "first appearance" in Court. It doesn't happen often, but sometimes an Accused will plead guilty at a bail hearing and be sentenced right away.

2. Entering the plea and setting the trial date (Fix Date)

If your partner was not held in custody, this will be his first appearance in Court. This is the date when an Accused charged with a summary conviction offence usually enters his plea of guilty or not guilty. Often, however, your partner will show up in Court without a lawyer and will be given time (an adjournment) to find one before he enters a plea. If he pleads guilty, he could be sentenced at this time. If he pleads not guilty a trial date is set.

If the charge is **indictable**, then the Accused decides which of three types of trials he would like:

- ◆ Trial by a lower Court Judge
- ◆ Trial by a higher Court Judge and Jury
- ◆ Trial by a higher Court Judge alone

If your partner chooses to be tried by a higher Court Judge and Jury or Judge alone, he is first entitled to a **preliminary inquiry** before a lower Court Judge.

3. Preliminary Inquiry (for indictable offences only)

A preliminary inquiry is much like a trial. But your partner's guilt is not decided at this point. The preliminary is a kind of "dry run" for both sides. The Crown has to show there is enough evidence to go to trial. The Defence lawyer gets a preview of the Crown's case. You should get a **subpoena** telling you to attend and testify at the preliminary. In most cases, the Judge will order a trial to be held. Then you will have to testify all over again.

4. Adjournments and Remands

Adjournments and remands (delays) are granted for various good reasons. For example, there may be some important missing evidence or a witness who can't attend Court on the date of the trial.

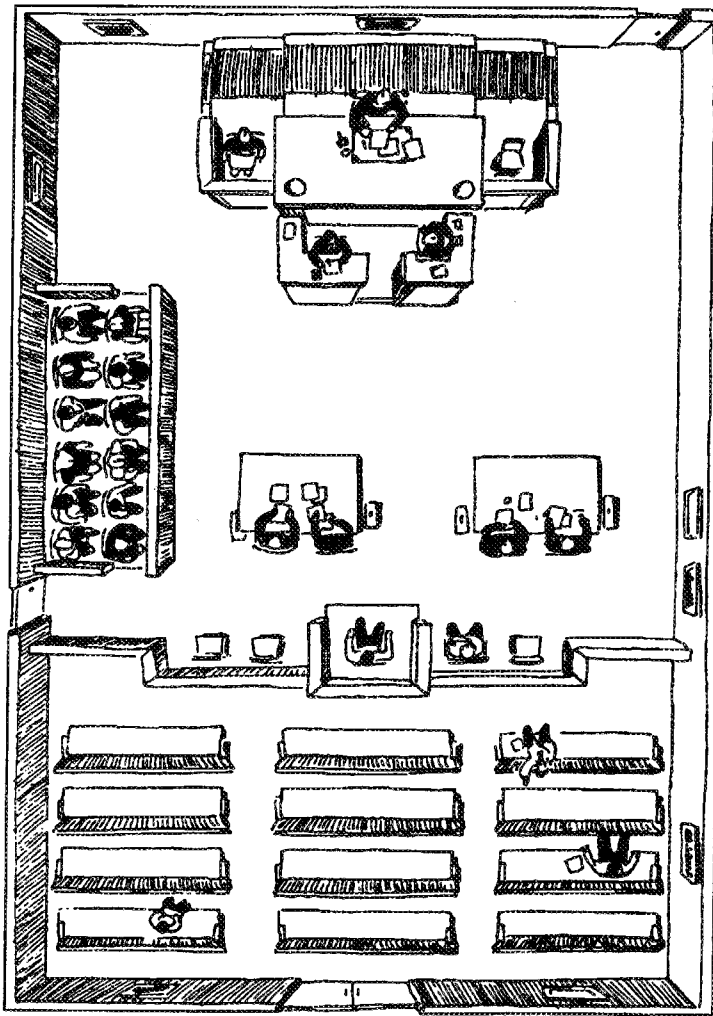
5. The Trial

At the trial, you will appear as a witness to help the Crown Prosecutor prove the case against your partner. If the verdict is guilty, a sentence may be given at this time or there may be an adjournment while a **pre-sentence report** is prepared by a probation officer. The report will be presented at a sentencing hearing.

6. Sentencing

The Judge passes sentence at this time. A pre-sentence report may be presented or there may be evidence presented at a hearing. Your Victim Impact Statement or your report to the Prosecutor about how the crime affected you can be presented at this time. Your partner (the Accused) will now be called the Offender.

WHAT THE COURT LOOKS LIKE



Most Courtrooms are set up roughly in this way. If you live in a rural area where traveling Courts pass through to hear cases, you may be attending Court in a makeshift location such as a school gymnasium, or a community or church hall. The Jury section will only be used if your partner has been charged with an indictable offence and has **elected** or chosen this method of trial.

WHO'S WHO?

Judge

The Judge sits at a high bench at the front of the Courtroom. There is often a coat of arms or picture of the Queen on the wall behind. Lower Court Judges are called "Your Honour". Higher Court Judges are called "My Lady" or "My Lord". Usually the Judge will be wearing robes. A Judge is "impartial", which means he or she is not supposed to have a bias or preference for one side or the other. The Judge makes sure the rules of the Court are obeyed and decides when to take a break or adjourn the trial. A Judge will often take notes while witnesses are questioned and sometimes ask witnesses questions directly.

The Jury

The Accused person is allowed to **elect** (or choose) trial **by Jury** for certain serious offences. A criminal Court Jury is usually made up of 12 people from the community who represent society. They are chosen from a larger group (or panel) before the trial begins. The Jury listens to the evidence and has to agree on what facts are the truth. The Judge will help them sift through the evidence, but the Jury has to decide on a verdict. No one can talk to Jury members while the trial is going on. When the trial is over, Jury members are not allowed to discuss how they made their decision.

Crown Prosecutor (also known as Crown Attorney, Crown Counsel)

The Prosecutor is *not your lawyer*. The Prosecutor acts for the government or the State (the Crown) and presents the case against the Accused. The Prosecutor decides how the case will be run, what witnesses to call, what questions to ask and what information to present to the Judge. In some Courts the Prosecutor wears a robe. Sometimes the Prosecutor will have an assistant lawyer.

Defence Lawyer (also known as Defence Counsel, Lawyer for the Accused/ Defendant)

The Defence lawyer is hired by and acts for the Accused. Sometimes the Defence lawyer is paid by Legal Aid. His or her job is to get his client (your partner) off the charge. If your partner pleads or is found guilty, the Defence lawyer's job is to get as light a sentence as possible. In some Courts the Defence lawyer wears a robe and may be accompanied by an assistant lawyer. Don't forget that the Defence lawyer is looking out for your partner's interests, not yours. You are not required to talk to the Defence lawyer apart from when you are testifying in Court. Defence lawyers may try to talk to you outside the Courtroom before your case is called. They may not make it clear who they are. Make sure you know who you are talking to and watch what you say out loud to others in the waiting area. You may say something that could be used against you and hurt the prosecution. If the Defence lawyer bothers or harasses you, let the Prosecutor or police know right away.

The Accused

The man who assaulted you (your partner) is known as the **Accused** until he is found guilty. He has the right to be present throughout the trial and to hear all of the testimony. Another name for the Accused is **Defendant**.

Court Clerk

The Court Clerk is a Court employee who sits below the Judge and calls the Court to order. The Court Clerk reads the charges out to the Accused and **swears** in (or **affirms**) witnesses. He or she also swears in any Interpreter, looks after all the official Court documents and evidence such as weapons or torn clothing which are filed as **exhibits**.

Court Recorder (or Reporter/ Stenographer)

The Court Recorder makes a record of everything that is said during the case. Sometimes they dictate into a tape

recorder (by using a silencing cup). Other times they take shorthand or type out a transcript. Some Courts simply use tape recorders. Having an exact recording of the case is important information for any later appeals.

Court Security or Sheriff

A Sheriff's job is to keep order in the Courtroom and to escort the Accused to and from the jail cells if he is in custody. A Sheriff will also look after witnesses and Juries.

Interpreter

Sometimes an Interpreter will be present to translate the Court proceedings to the Accused or questions to witnesses who do not speak the language of the Court.

Crown Witness

You are a Crown witness. You have special information to present to the Court which will help prove your partner committed the crime he is charged with. There may be other Crown witnesses, such as police officers or your neighbour, who are called to testify. You find out that you are being called as a witness when you receive a **subpoena** or other Court notice to appear in Court.

Defence Witness

A Defence witness is called to Court to present evidence that will help acquit your partner (get him off the charge) or receive a lighter sentence upon conviction.

Members of the Public

Most trials are open to the public. The right to a public trial means that justice has to be done in a fair and open way. This also means that you can bring a friend or other support person to sit with you through the case.

The Media

There may be news reporters in the Courtroom. However, cameras and audio recorders are not permitted except for Court purposes. And sometimes the Court will limit what can be reported so that the Accused gets a fair trial or the identity of the victim is protected. Often the Judge will order a **ban on publication** of the details of bail or preliminary hearings. If you are a victim of sexual assault, you can ask the Prosecutor to request a **ban on publication** of your name or other identifying information.

11. PLEADING GUILTY**A SAY ABOUT THE SENTENCE**

If your partner pleads guilty, there is no trial. You will probably not have to be a witness for the Crown. After the plea, the Crown Prosecutor will normally tell the Judge the facts of the case and sometimes recommend a sentence. Your partner or his lawyer will also present the facts from their point of view and ask for the lightest sentence possible.

You have the right to be present at the guilty plea and you should talk to the Prosecutor about the kind of sentence you would like to see. If, for example, you would like your partner to attend an assaultive men's treatment or anger management program as a condition of probation, let the Prosecutor know. If you still feel threatened and would like your No Contact Order extended, then that Order can also be a condition of probation. You may want to ask the Prosecutor to ask for an order stopping your partner from having a gun. See the section on *Sentencing* (page 67) for more details.

He plead guilty and he said that he had hardly touched me. And they needed me on the stand there to say, "Well, no. He actually tried to kill me." -- Marilyn

Why do you sometimes have to be a witness when your partner admits his guilt?

In certain cases, the Accused will admit his guilt, but will not admit how serious his attack on you was. The Judge will need to hear evidence about how seriously you were frightened or injured. You may be called to testify. The Crown Prosecutor may also present other evidence, such as photographs and police or medical reports, to prove the attack was serious.

12. PLEADING NOT GUILTY: THE TRIAL

I had decided that I was going to go alone. I didn't want to have friends involved... That was a big mistake. I'd never do that again. I'd take someone. I'd never go alone. --

Catherine

You feel like you're on trial. It's not you. It's him. -- Defence Lawyer

GOING TO COURT

One woman spoke in the video about how hard it was for her to testify. Her partner was the one charged with a crime, but he didn't have to do anything! He had the right to remain silent while she had to get up in the witness box and do all the explaining.

When you are testifying for the Crown, and the Defence lawyer tries to undermine everything you say, it may feel like you are the one under attack. Maybe you feel like you did something wrong. Maybe you are already feeling a little guilty for testifying against the man you were supposed to love and protect.

Now more than ever, you need someone's support. The person you choose depends on you. Look to your counselor, relative, or friend for reassurance that you are doing the right thing. Bring your support person to Court with you. You may be concentrating so hard on your role as witness that later you won't be able to remember what happened. Your support person can answer your questions about the trial and its results.

During your testimony, you will be asked to recall the events of the assault in as much detail as you can. This may be very hard for you emotionally. Also, the assault might have happened many months ago and your memory could be shaky. Many people who are physically injured suffer from memory loss. It's

the body's way of protecting us from bad experiences. Do the best you can. If you really can't remember something, don't allow a lawyer to force you to be sure. Tell the Judge if you can't remember.

Testifying in Court requires courage. It may seem hard at the time but it is worth it. By standing up and telling the truth about your partner's violence, you are making yourself safer both now and in the future.

Statistics show that the rate of violence is reduced for many men who go through the charging and the criminal Court process. It has an effect. It can change your situation. Your partner has to see that beating up his wife is not his right. Our society says it's not okay. Now maybe he will do something positive about changing.

What happens at a trial?

A trial is a formal event where there are many rules and procedures for presenting evidence. Ask the Prosecutor or support worker how to dress and act on the day of the trial. The trial process looks something like this:

1. Some trials begin with an opening statement by the Prosecutor. The Prosecutor tells the Judge what is going to be proved.
2. The Prosecutor then presents evidence to prove the charge. The Prosecutor examines the facts by asking **Crown witnesses** (including you) a series of questions under oath about what took place. This is called **examination-in-chief** or **direct examination**.
3. The Defence lawyer (or the Accused if he has no lawyer) then **cross-examines** the Crown witnesses to try and find flaws in their story. This will be the most difficult part of the trial for you. The Defence lawyer will be testing your story, trying to find flaws in it. The Defence does not take your word

for granted and you will find cross-examination uncomfortable. The Defence lawyer may try to upset or intimidate you. Try not to worry about the Defence lawyer's tone of voice or behaviour. The Defence lawyer's job is to try and get the answers from you that she or he wants. The object is to get you to agree with the Defence or to make you appear shaken and confused about your memory of the facts. The Defence lawyer can make many suggestions to you about what happened and your memory of events. But nothing the Defence lawyer says becomes evidence (and therefore important to the Judge) unless you agree with it. If the Defence tries to get you to agree to something that is not true, tell the Judge it is not true.

Remember that the Defence lawyer is not the Judge. You don't need to be agreeable or worry about whether the Defence lawyer likes you. Only the Judge will decide the case. You don't even have to look at the Defence lawyer if you don't want to. You can keep your eyes on the Judge if it helps you to focus on answering questions calmly and accurately.

4. Sometimes either side will be allowed to **re-examine** its witnesses to clear up some point. Sometimes the Judge, too, will ask you questions.
5. When the Crown Prosecutor has finished presenting witnesses and other evidence, the Defence lawyer will often ask the Judge for the case to be dismissed. If the Judge says no, then the Defence may make an opening statement that there is no basis for the charge. The Defence will usually then present **Defence witnesses** in the same way the Prosecutor questioned Crown witnesses (**examination-in-chief**).
6. The Prosecutor then gets the chance to **cross-examine** the Defence witnesses.
7. When all the evidence is in, each side will sum up its case.

8. If there is a Jury, the Judge will **charge the Jury** which means she or he will summarize the evidence and give the jury the information they need to decide the verdict.
9. Finally, the Judge will give the verdict. In a Jury trial, the Jury will retire to consider and return with a verdict. Sometimes the verdict is **reserved**, which means the Judge wants time to think about it and the verdict is given at a later time.
- 10 If the verdict is guilty, your partner will be sentenced either that day or at a later date. If the verdict is not guilty, he will be free to go.

What if you don't show up to testify?

If you stay away from the trial *on purpose* you could be charged with a criminal offence. If you fail to obey the document commanding you to attend Court (usually a **subpoena**) you could be found in **contempt of Court**. The Judge could issue a **warrant** (a Court order) for your arrest. It doesn't always happen. And it seems unbelievably harsh when your partner is the one who committed the crime! But to be safe, if you do not want to testify, tell the Prosecutor well before the trial date and, if possible, before you get your subpoena. The Prosecutor will discuss with you your reasons for not wanting to testify.

What if your partner doesn't show up for trial?

Normally a warrant will be issued for his arrest. Once he is in custody, he will have to go through another bail hearing and another date for trial will be set. Sometimes the Defence lawyer will have a good reason or excuse for your partner's absence and the Judge will grant an adjournment. The Prosecutor should keep you informed about what will happen.

How long will the trial take?

Trials can take several hours. More complicated or serious trials can take place over a period of days. Even if your trial is a very simple one involving few witnesses, it still might take several hours to be over. Your trial may not be the only one held in the

Courtroom that day. You may have to wait for your trial to be called. Ask the Crown Prosecutor how long your trial should take. Don't bring your children with you to Court. If they need care, make sure your baby-sitter is available for the whole day or longer if the Prosecutor tells you the trial will take more than one day.

Will you get a witness fee?

You may get a small fee for testifying in Court. Some provinces also pay for necessary expenses such as meals, child care, transportation and overnight accommodation. Talk to the Prosecutor about whether you can make a claim.

What do you do when you arrive at the Courthouse?

Your **subpoena** will tell you the date, time and place of the trial. If no other arrangements have been made, try to arrive 30 minutes early so that you can ask the Crown Prosecutor any last minute questions. Let the Prosecutor know you are there. The Prosecutor will tell you where to sit. You may have to wait because there are often a number of cases taking place in one Courtroom. Usually you will see your partner in the waiting area. If you don't want to see him, ask the Prosecutor if you can wait somewhere else. If your partner is in custody, he will be brought into Court directly from the jail cells.

What happens at the beginning of a criminal charge?

The Court is called to order and the Judge (and sometimes Jury) come in. Everyone in the Courtroom stands until the Judge sits down. The lawyers bow to the Judge. The Court Clerk then reads out the charge.

What can happen at the last minute before trial?

You may be all keyed up and ready to go through with the trial when you find out your partner is changing his plea to guilty. If this happens, the trial will not go ahead and you will probably not have to testify. The Court then deals with the sentence. Another possibility is an adjournment to another date. This can

be very upsetting, but it does sometimes happen. Let the Prosecutor know if an adjournment will cause you problems.

What is plea bargaining?

Sometimes charges are changed or dropped because they were wrong in the first place or could not be proved. Other times, Defence lawyers will **plea bargain** with the Crown to get charges reduced. Sometimes your partner will be charged with one offence and end up being convicted of a less serious one. Your partner may be charged with *assault causing bodily harm*, for example. But he may end up being convicted of a less serious charge: *common assault*. When there is more than one charge, the Crown may sometimes drop a charge. Plea bargains are also used to get the Crown to agree to a lighter sentence. The Defence makes these kind of deals in exchange for pleading guilty.

The Crown Prosecutor is the one who decides on a plea bargain. However, the Prosecutor should consult you first. You may feel relieved to avoid a trial and the need to testify. On the other hand, you might want to tell your story to the Court. You might think the new or reduced charge or sentence is not serious enough. Don't feel pressured into agreeing with the plea bargain. When you tell the Prosecutor how you feel, it helps her or him make a final decision.

What is an order for exclusion of witnesses?

The Judge may ask you and other witnesses to be excluded or to leave the Courtroom until they are called to testify. The reason for this is that the Court does not want witnesses to be influenced by what other witnesses say. In this way your testimony is fresh and original. If you are asked to leave, you will wait outside the Courtroom until called to testify. Bring a book or other reading material to help pass the time. Your friend or support worker can wait outside with you, or stay inside to tell you later what went on. However, such companions should not go back and forth between you and the Courtroom. If they do this, they should not discuss what they heard in the Courtroom.

Don't let other witnesses or anyone else except the Crown Prosecutor approach you to discuss what you are going to say in Court.

What happens when you are called as witness?

When your name is called go up to the witness stand. You will be asked to state your full name and address and swear an oath (or affirm) to tell the truth. If you don't want to reveal your address to your partner, tell the Judge. You should be able to write your address on a piece of paper and hand it to the Court Clerk. After you have testified, stay in the witness stand until the Judge says you are "excused". If you are a witness at a preliminary inquiry, you will have to leave the Courtroom after your testimony. If it's a trial you will usually be allowed to stay in the Courtroom to watch the rest of the trial.

Can you get an Interpreter at the trial?

If you won't be able to fully understand the language of the trial (English or French), talk to the Prosecutor ahead of time about getting an Interpreter who will translate the proceedings for you and your testimony for the Court.

Do you have to swear an oath or affirm?

Yes. You must either swear some kind of oath to tell the truth, or affirm if you have a conscientious objection to swearing an oath. An oath does not have to be a Christian one. You can also swear an oath on a holy book that isn't the Bible.

Oaths and affirmations help bring the truth out in Court because there are criminal penalties for lying. A witness could be charged with perjury for telling lies on purpose once she or he has sworn or affirmed to tell the truth. No one is charged with perjury for making an honest mistake or getting confused.

For the Christian oath you will place your right hand on the Bible and the Court Clerk will say something like:

Do you swear that the evidence you are about to give the Court in this case shall be the truth, the whole truth and nothing but the truth, so help you God?

If you don't want to swear an oath, let the Prosecutor or Judge know and you will be allowed to affirm like this:

Do you affirm that the evidence you are about to give the Court in this case shall be the truth, the whole truth and nothing but the truth?

Your reply will be yes, or I do, or I swear.

What kind of questions will the Prosecutor ask you?

The Prosecutor already knows your story and will lead you through it from beginning to end. You may also be asked some questions about your family life. The questions will focus on the event that led to the charge. You may want to tell the Judge about previous beatings but will probably not be allowed to do so. This can be frustrating for you, but the Judge only wants to know about the facts of the crime on trial.

The Prosecutor is not allowed to coach you ahead of time on exactly what you are going to say. However, you should insist on getting together before the trial to talk generally about the kinds of questions you'll be asked and what will happen.

***Defence Counsel is going to take her through each isolated incident and make them isolated and then try and string them together and put them back to her in a way that doesn't sound like what she said to the police. --
Defence Lawyer***

Why does it seem like the Defence lawyer is attacking you?

It helps to understand the role of a Defence lawyer. When a Defence lawyer tries to make it look like your memory is bad or you're lying, this is not a personal attack on you. It's part of the

Don't let other witnesses or anyone else except the Crown Prosecutor approach you to discuss what you are going to say in Court.

What happens when you are called as witness?

When your name is called go up to the witness stand. You will be asked to state your full name and address and swear an **oath** (or **affirm**) to tell the truth. If you don't want to reveal your address to your partner, tell the Judge. You should be able to write your address on a piece of paper and hand it to the Court Clerk. After you have testified, stay in the witness stand until the Judge says you are "excused". If you are a witness at a preliminary inquiry, you will have to leave the Courtroom after your testimony. If it's a trial you will usually be allowed to stay in the Courtroom to watch the rest of the trial.

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Do you affirm that the evidence you are about to give the Court in this case shall be the truth, the whole truth and nothing but the truth?

Your reply will be *yes, or I do, or I swear.*

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Defence Counsel is going to take her through each isolated incident and make them isolated and then try and string them together and put them back to her in a way that doesn't sound like what she said to the police. -- Defence Lawyer

Why does it seem like the Defence lawyer is attacking you?

It helps to understand the role of a Defence lawyer. When a Defence lawyer tries to make it look like your memory is bad or you're lying, this is not a personal attack on you. It's part of the

artificial "game" that lawyers play in the adversary system of justice. The Crown Prosecutor builds up the case against your partner with witnesses like you. The Defence lawyer tears down the case by picking holes in your story and other Crown evidence. Often the Defence lawyer will *suggest* to you a series of other explanations for your injuries. For example, the Defence may suggest that you were clumsy, or drunk, or hurt yourself in some way. If these suggestions are false, be sure to tell the Judge they are not true.

The Defence will often try to show the Judge that you have changed your story since the assault and the time you gave your statement to police. If the Judge doesn't know which version is true, then he or she can't find your partner guilty **beyond a reasonable doubt**. You should try to be as consistent in your story as possible. Ask for a copy of your original statement to read over before the trial. Ask the Prosecutor if you can bring into Court notes you made at the time of the assault. You may be allowed to look at them while you are being questioned.

What if you break down and cry?

You will probably find it hard to speak with your partner right there in the Courtroom. It may feel like you are being forced to recall the same bad memory over and over again. One moment you may feel you have everything under control, then suddenly you could feel overwhelmed and emotional. Remember, the Court is not judging you. You have every right to be upset. The Judge can wait until you feel able to continue with your story.

What if your partner cross-examines you himself?

If your partner defends himself (without a lawyer), he has the right to ask you questions on the stand. This may be very hard for you, especially if he is hostile. The Judge and the Prosecutor should protect you from any verbal attacks. However, you should know that some Judges will bend the rules and give an Accused person who has no lawyer or experience in Court a lot of freedom to question you. The questioning could be harsh and

painful for you. If your partner refuses to obey the Judge's limits on his questioning (for example if he calls you names or threatens you in the witness box), he could be charged with **contempt of court**.

What else should you know about being a witness?

1. Try to tell the truth as you remember it at the time.
2. Keep in mind that the Judge knows nothing about the assault. You must paint the picture of what happened and fill in all the details. Don't be worried about forgetting an important detail. The Prosecutor will lead you through your story, making sure nothing important gets left out.
3. The Judge is the one who needs to know the story. Try to stand facing or angle your body and give your answers directly to the Judge. By looking toward the Judge you can also avoid uncomfortable or threatening looks from your partner, especially if he is cross-examining you himself.
4. Take your time when answering. Don't allow the lawyer to rush you. *Never let a lawyer put untrue words in your mouth*. Be sure you understand each question. Tell the Judge you don't understand and ask to have the question repeated or rephrased. If you don't know the answer, say so. If you're not sure, say so.
5. If a lawyer objects to a question you've been asked, stop speaking until the Judge decides if the question is okay. If you think a question is improper, ask the Judge if you have to answer it. If the Judge says yes, you must answer.
6. If you make an honest mistake in your testimony, tell the Judge and the lawyer who is questioning you right away.
7. Speak clearly and loudly enough so you can be heard. The microphone found in many witness boxes is not an amplifier. It just records evidence. Remember that if you shake or nod

your head instead of saying yes and no, the Court Recorder will not record the motion.

- 8. Don't give an opinion unless you are asked. The Judge is interested in finding out the facts and does not want to hear unnecessary information.
- 9. You can refuse to answer a question if your answer could convict you of a crime. If you think this is a possibility, get legal advice ahead of time from a private or Legal Aid lawyer.

What if the verdict is not guilty?

If your partner gets off the charge it doesn't mean the Judge thought you were lying. Our system gives an Accused person many legal rights and protections. Often people do get off on a technicality. It's not your fault and it doesn't mean it was a bad idea to call the police and follow through as witness to the charge. And it doesn't mean you did a bad job as witness. Talk to the Prosecutor about why your partner was acquitted. An appeal might be possible.

13. THE VICTIM IMPACT STATEMENT

THE EFFECT ON YOUR LIFE

Long after the assault, you may still be having emotional problems such as depression or nightmares. Your assault injuries may have scarred you, caused you ongoing physical pain, or limited the things you could do. Some of these problems could be permanent. Perhaps the assault cost you your job or caused you lost wages or time missed from school. It may have caused problems for your children too.

Most provinces or territories have **Victim Impact Statement** programs in place. In a Victim Impact Statement you get the chance to describe what effect the assault has had on your life. The Prosecutor or police may ask you to fill out a Statement before the trial or guilty plea takes place. The Prosecutor may present the Victim Impact Statement to the Judge at the time of sentencing. In other cases, the Victim Impact Statement will be sent directly to the Court where the Judge will decide whether or not to read it and use it if there is a conviction. At sentencing, the Defence lawyer has a chance to say positive things about your partner to persuade the Judge to order a lighter sentence. Your statement helps balance the information the Judge receives. It helps the Judge decide what kind of sentence to give.

Will your Victim Impact Statement always be used in Court?

Not always. Usually the Prosecutor decides whether to present it to the Judge. In other cases the Judge decides whether or not to read it. Think carefully about what you want to say. Remember that your Statement may be read out loud in the Court or shown to your partner and his lawyer. If there is no Victim Impact Statement program in your region, you should still have a chance to make a report to the police or Prosecutor explaining how the crime affected your life. This report may be

presented by the Prosecutor to the Court at the time of sentencing.

Will you be questioned in Court about your Victim Impact Statement?

It is rare but possible. You could be cross-examined by the Defence lawyer if the Defence disagrees with the facts contained in it. The Prosecutor will explain to you what will happen in this type of situation.

14. THE SENTENCING

STOPPING THE VIOLENCE

The purpose of sentencing is to punish your partner for the crime he has committed. Some sentences also offer your partner help. He may get access to treatment and other programs that can help him change. While group counseling programs for violent men can be successful, don't count on your partner reforming overnight! It won't happen. Abusive behaviour patterns are built up over a lifetime and take a long time to change.

Sentencing usually happens after the trial is over but it can also happen after a guilty plea or at a special sentencing hearing date. In the end, the sentence may not be what you had hoped for. Often the sentence is quite minor compared with the harm he has done to you. But it's not very helpful if you get too focused on how much you would like to see him punished. For most men, being arrested is a shock. Being charged and having to go to Court is even more disturbing. It may stop him hitting you. The punishment itself may just be an anti-climax.

The most important thing for you is to get on with your life. Your life may still include the man who assaulted you. But you don't have to continue to be his victim. That's why it's important for you to attend the sentencing hearing and finish playing your part. Knowing the result is important.

Will your partner be sent to jail?

Jail sentences for a first offence are rare. Most men convicted of assault for the first time are placed on probation for a period of time and ordered to attend assaultive men's treatment programs. Your partner may also have to pay a fine. If you are worried about your partner going to jail, talk to the Prosecutor about whether it's likely. Explain how a jail sentence could

affect your family. For example, if your partner loses his job he might not be able to support you and your children. Your family should not suffer to help your partner pay for his crime. If you have stayed with him or got back together with him since the assault charge, you will probably be unhappy to have him sent away to jail. Tell the Prosecutor if you want your partner to stay with you.

What happens at sentencing?

The Prosecutor and the Defence lawyer give the Judge information about your partner and the assault. Sometimes there will be a **pre-sentence report** on your partner written by a probation officer. This report will include information on the Offender's family life and personal situation. The Prosecutor will summarize the facts and perhaps present your **Victim Impact Statement**. The Defence then has a chance to reply and perhaps bring in witnesses or other evidence. The Prosecutor can (but doesn't always) suggest what the sentence should be. The Defence tries to stress good things about your partner's character or the things that might excuse his behaviour and lessen the sentence. The Judge then decides on a fitting sentence.

Do you have any say in the sentence?

A probation officer who writes a **pre-sentence report** should speak to you about the sentence. If you filled out a **Victim Impact Statement**, it should also be used by the Prosecutor. Talk to the Prosecutor. If you would like to see a certain kind of sentence, such as a probation order that requires your partner to get counseling or treatment, let the Prosecutor know and try to be at the sentencing hearing if it takes place at a later date. Another good reason for attending the hearing is that you need to know what orders (such as a **No Contact Order**) have been made for your safety. Get a copy of this order and have it to show the police in case your partner later breaks the order.

What is the sentence based on?

The Judge might look at:

- ◆ how severely you were assaulted
- ◆ what effect the assault had on you and your family
- ◆ whether your partner was sorry for his crime or will likely assault you again
- ◆ whether your partner has been to Court before for the same kind of offence
- ◆ his ability to pay a fine/ whether he needs time to pay
- ◆ the effect the sentence might have on you and your family
- ◆ whether your safety needs to be protected by a further No Contact Order

What kinds of sentence can your partner receive?

The **Criminal Code** specifies maximum (and, rarely, minimum) sentences for various crimes. A Judge will hardly ever hand down the maximum sentence for a crime. Although a Judge does have a lot of choice in sentencing, sentences for the same kind of assault do tend to look alike. Ask the Prosecutor what is the usual sentence for your kind of case. Here are some elements of possible sentences:

- ◆ **probation** for a period up to three years with conditions; some of the conditions might be:
 - ◆ to make regular reports to a probation officer
 - ◆ to have no direct or indirect contact with you or to *keep the peace* with you (not harm you)
 - ◆ to not take drugs or alcohol
 - ◆ to attend an anger management, assaultive men's treatment, or other family violence counseling program

If your partner disobeys his conditions, he can be charged again with **breach of probation**. Other possible elements are:

- ◆ **fine** payable immediately or by instalments

- ◆ **jail** for a period of time; jail time can be served all at once or in blocks of time like weekends (an *intermittent* sentence).
- ◆ **compensation and restitution:** your partner can be ordered to pay you for damage to property that occurred during the assault (for example, a smashed car window) or for some of the expenses he caused by injuring you. However, this kind of sentence is rare in an assault case. Usually, these kinds of claims are handled through **criminal injuries compensation** programs or by **suing** your partner in civil Court.

15. THE HEALING

It gave me a sense that I had actually done something. Instead of sitting around and waiting for him to come after me, I had actually gone ahead and done something. -- Marilyn

When I stood in that Court at the witness stand, I got my power back. I stood up for myself and my rights and it felt really good. -- Geraldine

GETTING YOUR POWER BACK

It can take a long time to heal. Long after your trial is over you may still be hurting, both physically and emotionally. Your family may be going through a lot of changes in a short time. The more time, energy and emotion you put into your Court case, the more likely you'll get the result you want. But going to Court can be very stressful. And it can take time for you and your family to recover.

Give yourself that time to recover. After the Court case is over, think about getting some more counseling for yourself and your children if you think it would help. You have survived a lot already. You deserve to be respected and safe in a relationship. You never deserve to be hit. Take good care of yourself from now on.

16. MORE QUESTIONS ABOUT FAMILY LAW

While your criminal case is going on, you may have a lot of other legal questions about:

- ◆ separation or divorce
- ◆ child custody and access
- ◆ financial support from your partner (maintenance and child support)
- ◆ your rights to household belongings and property (family assets)

If you choose to end your marriage or your relationship with your partner, you will need advice in these areas of family law. The Prosecutor handling your case can't give you legal advice on these problems. You will have to go to a private or Legal Aid family lawyer for help. Contact a family lawyer as soon as you can. Be sure not to sign any legal papers in the meantime. (For information on *restraining orders* and *orders for exclusive possession or sole occupancy* of your home, see p.33)

The following answers do not apply to you if you live in Quebec. Contact a private lawyer or your local Legal Aid office for advice.

What is separation?

Separation simply means that you and your partner are no longer living together. Separation can be a ground for divorce.

What is divorce?

Divorce is the legal end to a marriage. You can get a divorce if your marriage has broken down. Physical cruelty could be one of the grounds for divorce. Divorce does not apply to a common law relationship. However, you may have other legal rights. You should talk to a family lawyer about your situation.

What is a separation agreement?

A separation agreement is a legal document describing what you and your partner agree upon when you have separated. Usually your family lawyer will come to terms with your partner's lawyer on things like custody, access, support money, and family assets.

What is custody?

While you and your children's father are living together you both have **custody** (or legal rights) to your children. When you separate, these rights continue unless you get a Court order or make a custody agreement with your partner. A Judge will make a custody order that is in the *best interests of the children*.

What is access?

Access is usually given to the parent who does not have custody of the children. Access means the right to visit or have the children visit you, the right to talk to them on the phone and have them spend some vacation time with you.

What is child support?

Both parents have a duty to support or pay for the daily costs of raising their children. Child support is money paid to the parent who has custody. You don't need to have been legally married or living with the father in order to get a child support order. A step-parent or someone who took the place of a parent can also be ordered to pay child support.

What is maintenance or spousal support?

Maintenance or spousal support is money paid by one partner (spouse) to the other to cover living expenses. A separated couple can come to an agreement, or the Court can order a lump sum or regular payments over a period of time. You don't always have to be legally married to apply for maintenance or spousal support.

What are family assets or marital property?

These are possessions used for a family purpose. Usually your furniture, car and home are family assets.

Should you apply for custody or support money?

Your lawyer will give you the best advice. If you want your children to stay with you, find out about getting a Court order for custody and support as soon as you separate from your partner. If you want custody of your kids it's best to keep them with you when you separate. Court cases can take a long time. During the case, a Judge will usually leave the children where they are rather than disrupt their lives by moving them before a final custody order is made.

If you have custody, can your partner see the children?

Usually a Court will give access (the right to visit) to the parent who doesn't have custody. If access is *unrestricted*, often the words used in the order are *reasonable* or *liberal access* or *access as arranged*, details left to be worked out between you and your partner. This may be too loose an arrangement for you. Talk to your lawyer about a specific access order. You might want *specified* or *limited access* (certain times or days and pick up arrangements). Or you might ask for *supervised access* (visits with someone trusted there to care for the children or keep them safe).

Finally, you may want to prevent your partner from getting any access at all. If he has abused the children, tell your lawyer or the Judge. Explain why you think the children are in danger. Some Judges will decide that by exposing your children to the violence against you, your partner was abusing the kids too. If you have a No Contact Order, a Peace Bond or a restraining order, let your lawyer and the Judge know. Whatever you do, of course, you should talk to your children about what kind of contact they would like.

What if your partner doesn't return the children after access?

Call the police and show them your copy of the custody and access order. Give them a photograph of the children and other information to help find them. Your partner commits a criminal offence when he breaks the custody/access order in this way. He can be arrested and charged.

What if your partner threatens to destroy or hide your property?

Tell your lawyer. Your lawyer can apply for a restraining order if you don't already have one. You can also talk to the police about a Peace Bond or possible criminal charges.

How do you find a family lawyer?

If you don't have a lawyer, look in the Yellow Pages under *Lawyers*. Many parts of the country also have a Lawyer Referral service (usually a number listed in your phone book). Don't go to a lawyer your partner suggests. Another good way to find a lawyer is to contact the Transition House and get the name of a lawyer they recommend. You could also ask your friends for the name of a good lawyer. If you can't afford legal fees, you can apply to Legal Aid for help. You can get the number for Legal Aid from the phone book, Transition House, the police or the Prosecutor.

How do you prepare for your first meeting with your family lawyer?

Be as organized as you can. Write out a list of questions beforehand and take notes while you're there. Ask the lawyer about his or her experience in cases like yours. If you are paying the legal bill yourself, make sure you understand how much the service will cost and how it might be paid.

What should your family lawyer be doing for you?

You have a right to know what's going on and to make decisions about your case. It's very important for you to

understand what's happening. Ask your lawyer to repeat or rephrase anything that's unclear. Some cases are more complicated than others and take longer to finish. But if you think your case is being delayed too long, ask why. If you think your lawyer isn't listening to you or paying enough attention to your case, let your lawyer know. If you're still unhappy or aren't getting enough information, look for another lawyer.

If you have hired a private lawyer, how can you control the legal costs?

Keep yourself well informed about your case, but keep in mind that lawyers usually charge by the hour. They will also charge you for expenses and time they spend in Court or interviewing. The more time your lawyer spends on your case the higher the bill will be. Try to keep your calls and appointments as brief as you can. Organize documents and other information ahead of time. In this way you can help reduce the legal fees. If you win your case, the Court will probably order a good portion of your legal fees to be paid by your partner.

What are some special problems facing immigrant women?

You may be worried about you or your partner being deported if you leave him or if he is charged with a criminal offence. The federal department handling immigration matters (Employment and Immigration Canada) has special rules for immigrant women in violent relationships. If your partner sponsored you, your separation or a criminal charge might affect your right to stay in the country. It all depends on the facts in your case and your immigration status. Speak to an immigration lawyer about your situation as soon as you can.

17. OTHER SOURCES OF HELP

What about welfare, social assistance or other government benefits?

If your partner was supporting you or looking after the children while you worked, you may now need some financial help from the government. You might feel embarrassed applying for welfare or other government benefits. But it may just be for a while. And it may be necessary to help you get out of your abusive relationship. Government programs are there to help you. Getting your own source of money could help you stop the violence from continuing in your life.

Can you get help finding a job?

If you've been out of the work force for a while, finding a job can be hard. Ask your Transition House about special job training programs for women. You may be able to learn new computer skills, for example, or get some on-the-job training in a new field. There may be help available preparing for job interviews and writing up your resume.

What about housing?

Transition Houses (or Shelters) are only temporary places to stay. You might be lucky enough to find Second Stage (longer term) Housing for women leaving abusive relationships. Ask your support worker about government-funded housing in your area. There may be a waiting list, but battered women and their families are often given priority.

Can you get counseling for yourself and your children?

Living in an abusive home can cause lasting emotional problems. Many Transition Houses have individual and group counseling programs for women and their kids. This is a time of crisis in your life. It helps to talk to other women and experienced counselors. Even after you've left your partner,

your children will probably be scared and mixed up too. You may have a tough time coping as a parent. Getting counseling for your children doesn't mean you are a bad parent. It means you want the best for your kids. This is the time to reach out for some emotional support and practical help.

Your children may feel:

- ◆ AFRAID: the violence will happen again
- ◆ TO BLAME: that you were fighting about them
- ◆ GUILTY: that they didn't protect you
- ◆ ANGRY: because they couldn't do anything about it
- ◆ SAD: about what they saw and what the future holds

Chances are your kids also watched your partner abuse and blame you. They might now blame you for staying so long, for putting up with the violence, or for splitting up the family. This could be really hard to take. Maybe you stuck it out so long with your partner for the children's sake. Your children may need help learning that the violence was not your fault or their fault. *It was your partner's fault.*

Handling these mixed up feelings demands a lot of patience. You might have to talk to your kids about their feelings more than ever before. They need to be reassured that you love them, that you will try to keep the family safe from now on. Abusive lifestyles often get handed down from one generation to the next. Now is a good time to help your children learn that families don't have to live that way.

What about counseling for your partner?

He will have to decide he wants to stop being violent. There are now many treatment programs for assaultive men across the country. Their aim is to stop abusive behaviour and help men learn a non-violent way of life. Sometimes support groups for women partners of the men in treatment are also available. These kinds of programs are not marriage or relationship counseling. They don't aim to get you back together with your partner (although that sometimes happens). Being abusive or violent can be a lifelong problem. Many men need years of

counseling therapy to stop being physically and emotionally abusive. Some never change. You cannot rely on these programs to ensure your safety. But there is hope if your partner can get into a treatment program and really wants to change. Ask your support person or Transition House about programs in your area. Tell your partner to talk to his Probation officer or his lawyer about the possibility of treatment.

INDEX OF LEGAL TERMS

| | |
|---------------------------|--|
| Absolute Discharge | The lightest sentence possible for someone found guilty of a criminal offence. The person is free to go and no conviction is recorded. An absolute discharge is very rarely given in an assault case. |
| Accused | A person charged with a crime. |
| Acquittal | When a Judge decides the Accused is not guilty of the charge. |
| Adjournment | The trial or hearing is delayed until another time or day. |
| Affidavit | A written statement of facts that a person swears to be true. |
| Affirmation | A solemn promise to tell the truth in Court. A witness who doesn't want to swear an oath on the Bible or other religious book can affirm instead. (See page 61) |
| Appearance Notice | A charging document that orders the Accused to go to Court at a certain time on a certain day to face a charge. (See page 25) |
| Arrest | Arrest means taking someone into custody or jail. (See page 24) |
| Assault | The threat or use of force against another person without his or her consent. (For different kinds of assault see page 23) |
| Bail | Money or property deposited in Court to guarantee that the Accused will show up for trial. Also the term used for the procedure for releasing an Accused person until trial. Also called Judicial Interim Release . (See page 29) |

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| Bail Hearing | A Court hearing where a Judge or Justice of the Peace decides if and on what conditions an Accused person will be released from jail. Also called a Show Cause hearing. (See page 29) |
| Burden of Proof | The Crown Prosecutor has the <i>burden</i> (or responsibility) of proving the Accused is guilty. An Accused person does not have to prove his or her innocence. (See page 42) |
| Charge | A formal accusation of a crime. |
| Civil Suit | A legal action in a non-criminal court. |
| Compensation | Money paid to make up for somebody's loss. |
| Compensation for Victims of Crime (Criminal Injuries Compensation) | Money paid under a regional program to victims of crime. (See page 36) |
| Complainant | The person who says a crime has been committed. |
| Conditional Discharge | A sentence that requires the Offender to obey certain conditions for a period of time. If the Offender does obey, he will not have a criminal record when the conditions are over. Rarely used in assault cases. |
| Contempt of Court | A criminal charge used when someone disobeys the rules of Court or gets in the way of justice. For example, you can be charged with contempt of Court if you fail to obey a summons or <i>subpoena</i> . (See page 34) |
| Conviction | The Court's judgment that an Accused person is guilty. |
| Counsel | Lawyer, legal advisor. |

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| Crime | An act or behaviour prohibited (forbidden) under the <i>Criminal Code of Canada</i> and certain other laws. (See page 23) |
| Criminal Code of Canada | A collection of federal laws which define crimes and what sentences and legal procedures apply. Each crime has a number. |
| Criminal Injuries Compensation | A government program (called different names in various provinces and territories) to pay victims a sum of money to help them recover from a crime. (See page 36) |
| Cross-examination | When a witness is questioned by the lawyer for the opposite side. (See page 55) |
| Crown Counsel | The Prosecutor or Crown Attorney who acts for the State (the <i>Crown</i>). |
| Crown Witness | A witness who is called to Court by the Prosecutor. |
| Custody | <i>Custody of the children</i> means care and control of them. (See page 73) To be <i>kept in custody</i> means to be kept in jail. |
| Damages | Money claimed or paid to compensate for an injury or a loss. (You would claim <i>damages</i> against your partner if you sued him in civil court). |
| Defence Counsel | Lawyer for the Accused. |
| Defendant | Another name for the Accused in a criminal trial. Generally, anyone defending himself or herself against legal action. |
| Direct Examination | Also called <i>examination-in-chief</i> . The lawyer who calls a witness <i>directly examines</i> or questions the witness to bring out the evidence for that side of the case. (See page 55) |

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| Election | The choice an Accused person makes about the kind of trial he would like. An election only occurs in indictable offences. (See pages 45, 49) |
| Examination-in-chief | Also called <i>Direct Examination</i> . The evidence a witness gives in Court when questioned by the lawyer who called him or her to Court. (See page 55) |
| Exclusion of Witnesses | At a trial a Judge can order witnesses to leave the Courtroom until they are called to testify. (See page 59) |
| Exclusive Possession Order (Sole Occupancy Order) | A special kind of <i>restraining order</i> given in civil court that gives you the right to live in your home without your partner. (See page 34) |
| Indictable Offence | A more serious crime under the <i>Criminal Code</i> . (See page 45) |
| Information | The charge as written out by the Informant (the person who accuses). When you <i>lay an information</i> , you lay a charge. |
| Intermittent Sentence | A jail sentence (90 days or less) that lets the Offender serve it in intervals (e.g. weekends) over a longer period of time. |
| Judicial Interim Release | The legal procedure for releasing someone in jail until trial. The Accused will be released unless the Prosecutor can "show cause" why the Accused should be kept in jail. Usually the Accused is released with certain conditions to follow. (See page 29) |
| Justice of the Peace | An officer of the Court who has some of the powers of a Judge. You lay an information (lay a charge) before a Justice of the Peace. |

No Contact Order A Court order preventing the Accused from contacting you. (See page 30 and descriptions of No Go or Non Attendance Orders)

Oath A promise to tell the truth in Court sworn on the Bible or other religious book. See also Affirmation. (See page 60)

Offence A crime.

Offender Name for the Accused once convicted.

Peace Bond A Court order (under s. 810 of the *Criminal Code*) ordering the Accused to keep the peace and be of good behaviour (stay away from you and not threaten or harm you). (See page 32)

Perjury The crime of telling a lie in Court when you have sworn an oath or mad an affirmation to tell the truth. (See page 60)

Plea The Accused answers either guilty or not guilty to the charge. (See page 46)

Plea Bargaining When the Defence lawyer bargains with the Prosecutor to get charges reduced or dropped or a lighter sentence in exchange for a guilty plea. (See page 59)

Preliminary Inquiry/Hearing
In *indictable* offences, a hearing to decide if there is enough evidence to go to trial. (See page 47)

Pre-sentence Report
A report by a Probation officer describing the Offender's family life and personal situation. The Judge uses this report to help decide on the sentence. (See page 68)

Probation Part of a sentence that sets out conditions which the Offender must obey for a period of time. Probation is attached to a *Suspended*

Sentence. No fine or jail term is required. (See page 69)

Promise to Appear The Accused can sometimes be released from jail by signing a *Promise to Appear* for Court. (See page 25)

Psychiatric Remand/Assessment
The case can be remanded while the Accused is sent to a mental health professional (e.g. a psychiatrist or psychologist) who will report on the Accused's state of mind. The Judge uses this report or assessment to decide if the Accused is fit to stand trial.

Publication Ban A Court order forbidding the media from publishing information (often identities) about a case. (See page 52)

Reasonable Doubt The Prosecutor must prove the Accused committed the crime *beyond a reasonable doubt* (quite a high degree of proof). (See page 42)

Recognizance A promise by the Accused to pay a sum of money if he or she fails to obey certain conditions (e.g. showing up for Court). This debt is in addition to other possible charges for breaking those conditions. (See page 25)

Remand Adjournment; to put off a trial or hearing until later.

Reserve Judgment A Judge's decision might not be right away. The Judge might *reserve judgment* (deliver a decision later) while he or she takes some time to study the law or the evidence.

Restitution (and Compensation)
When sentencing the Accused, a Judge can order *restitution* (restoring damaged property to its former state) and *compensation* (payment to you for losses you have suffered). Usually these claims are handled through

criminal injuries compensation programs or civil suits. (See page 70)

Restraining Order (Prohibition/Non-Molestation Order)

A civil (not a criminal) court order telling your partner not to *molest, annoy or harass* you or your children. Also called an *order of prohibition or non-molestation order*. (See page 33)

Serve Officially deliver a legal document (e.g. a *subpoena*)

Sexual Assault A specific form of assault under the *Criminal Code* which involves sexual contact without your consent. (See page 24)

Show Cause Hearing A Bail Hearing. (See page 29)

Statement A written description of events given to the police and signed by the person making the statement. (See page 17)

Subpoena Court order telling a witness when and where to be in Court. (See page 42)

Summary Conviction Offence A criminal offence less serious than an *indictable* offence. (See page 45)

Summons A Court order commanding the Accused to go to Court to face a charge. (See page 25)

Suspended Sentence A punishment that does not require an Offender to go to jail. Usually there is a probation period with conditions that the Offender must obey. If he disobeys the conditions, he can be brought back to Court to be re-sentenced on the original charge and possibly charged and convicted of the new offence of breach of probation.

Testimony Information given under oath (or affirmed) by a witness in Court.

Verdict Decision by the Judge or Jury: guilty or not guilty.

Victim Impact Statement A written statement by the victim describing the effect the crime has had on her or his life. Most provinces or territories have a program which provides the *Victim Impact Statement* for possible use by the Judge to help decide on a sentence. (See page 65)

Warrant for Arrest A Court order giving the police the right to arrest someone. (See page 57)

Witness A person who gives evidence in Court.

OTHER INFORMATION

SELECTED BOOKS, PAMPHLETS AND VIDEOS
ON THE CRIMINAL LAW PROCESS FOR ASSAULTED WOMEN

Government departments and private agencies in each province or territory produce many informational books and pamphlets about wife assault. Ask your support worker or the Prosecutor for up to date material in your area. Here are some specific titles of books and pamphlets that apply to your part of the country. For information about the legal process in Quebec, please refer to the Quebec version of the video and Handbook.

Northwest Territories

Women and the Criminal Justice System (28 pp.) and *Women and Family Law* (29 pp.)

In English and French. Written by Shelley Howell, Arctic Public Legal Education and Information Society; revised 1992; for copies contact Arctic PLEI, Box 2706, Yellowknife, N.W.T. X1A 2R1, tel. (403) 920-2360.

Break the Silence... Help from Police and Courts (8 pp.)

Status of Women Council of the NWT, 1992; for copies contact Department of Justice Canada, Yellowknife Regional Office, Box 8, 11th Floor, Precambrian Building, Yellowknife, NT X1A 2N1, tel. (403) 920-8564, or Box 1030, Building 163, Iqaluit, NT X0A 0H0, tel. (819) 979-5324

The Sexual Assault Help Book, (23 pp.)

Produced by Government of the Northwest Territories Departments of Social Services, Family and Children's Services, Justice and the Victim Assistance Fund.

Yukon Territories

"Women Can't Be Beat" Kit and "Law Made Easy" pamphlets

Produced by Yukon Public Legal Education Association, 1989. Tel. (403) 667-4305.

British Columbia

Wife Assault: Information on your rights (16 pp.)

By Shelley Rivkin and Gayla Reid, revised 1991. Published by the Legal Services Society of B.C. (Suite 300, Box 3, 1140 West Pender, Vancouver, B.C. V6E 4G1, tel. (604) 660-4600), the B.C. Ministry of Attorney General, the federal Department of Justice, and the Justice Institute of B.C.

Legal Process for Battered Women: A manual for intermediaries (127 pp.)

Revised by Megan Ellis, 1992. Published by the Legal Services Society of B.C., Suite 300, Box 3, 1140 West Pender, Vancouver, B.C. V6E 4G1, tel. (604) 660-4600.

Alberta

Law and the Abused Woman (32 pp.)

Published by the Calgary YWCA Support Centre (320 - 5th Ave. S.E., Calgary, Alta. T2G 0E5, tel. (403) 266-4111), The Junior League of Calgary, and The Alberta Law Foundation.

Battered Women in Alberta (20 pp.)

Student Legal Services of Edmonton, 1989; for copies contact Student Legal Services of Edmonton, 114 Law Centre, corner of 88th Ave. and 111 Street, Edmonton, Alta. T6G 2H5, tel. (403) 492-2226.

Saskatchewan

A Guide to the Law for Battered Women (22 pp.)

By Vera Marie Wolfe, Public Legal Education Association of Saskatchewan, Inc., 1988; for copies contact PLEA, Room 210 - 220 3rd Avenue South, Saskatoon, Sask. S7K 1M1; tel. (306) 653-1868.

Manitoba

Women's Legal Handbook: A Guide for Manitoba Women (106 pgs.) Revised by Barb Palace, Public Legal Education Activities (PLEA) 1993; for copies contact Community Legal Education

Association, 304-283 Bannatyne Avenue, Winnipeg Manitoba R3B 3B2, tel. (204) 943-2382.

Ontario

Your Rights: An Assaulted Woman's Guide to the Law (137 pp.)
By Kate Andrew and Mary Lou Fassel, The Barbara Schlifer Commemorative Clinic, Toronto, 1991; for copies contact the Ontario Women's Directorate, Publications Department, 2nd floor - 480 University Avenue, Toronto, Ontario M5G 1V2, tel. (416) 597-4605.

For Abused Women: A Legal Rights Handbook (45 pp.)
Published by Hastings and Prince Edward Legal Services, 1989; for copies contact Community Legal Education Ontario, 700 King St. West, Suite 618, Toronto, Ontario M5V 2Y6; tel. (416) 941-9860.

New Brunswick

A Legal Rights Handbook for Abused Woman
Published by the Public Legal Education and Information Service of New Brunswick, 1992; for copies contact them at P.O. Box 6000, Fredericton, New Brunswick, E3B 5H1; tel. (506) 453-5369.

Nova Scotia

Making Changes: A Book for Women in Abusive Relationships (52 pp.)
By Brenda Beagan, 1992. Nova Scotia Advisory Council on the Status of Women, P.O. Box 745, Halifax, Nova Scotia B3J 2T3; tel. (902) 424-8662 or toll-free 1-800-565-8662.

Prince Edward Island

Women Assault and the Law (14 pp.)
Community Legal Information Association of P.E.I., Inc. in cooperation with Transition House Association, Victim Services, and Janet MacLeod, 1992; for copies contact Community Legal Information Association of P.E.I., Inc., P.O. Box 1207, Charlottetown, P.E.I.; tel. (902) 892-0853.

Newfoundland

I Am Worth the Effort, (80 pp.)
By Judith Kelsey, 1988. Produced by Iris Kirby House, P.O. Box 6208, St. John's Newfoundland, A1C 6J9; tel. (709) 722-8272.

VIDEOS

Northwest Territories:

The Victim in Court, 21 min. Inuktitut; 19 min. English
Produced by The Baffin Region Agvvik Society and the Iqaluit Victims Interagency Group.

Alberta:

Domestic Violence, 14 min.
Produced by Access Network Video as part of the *You and the Law* series, 1987.

Ontario:

Bridging the River of Silence, 65 min.
Produced by Cine Metu Production, 1991; focuses on one woman's use of the criminal justice system in Ontario to end the abuse. Can be rented from the National Film Board of Canada and purchased through Kinetic, Inc., 408 Dundas St. E., Toronto, Ontario M5A 2A5, tel. 1-800-263-6910.

Newfoundland:

The Justice System, Part I and II, 55 min.
Produced by OKalaKatiget Society, Nain Labrador, 1989.

OTHER READING:

You Are Not Alone - A Guide for Battered Women
By Linda P. Rouse. Published by Learning Publications Inc., Holmes Beach, Florida, 1986.

You Can Be Free: An Easy-to-Read Handbook for Abused Women

By Ginny NiCarthy and Sue Davidson, based on the book *Getting Free*. Published by Seal Press, 3131 Western Avenue, Suite 410, Seattle, Washington. 98121, 1989.

Surviving Procedures After a Sexual Assault

By Megan Ellis. Third edition published by Press Gang Publishers, 603 Powell St., Vancouver, B.C. V6A 1H2, 1988.

