

Resources for women

WHEN BATTERED WOMEN ARE ARRESTED

A GROWING PROBLEM

IF YOU HAVE BEEN ABUSED AND ARRESTED

**A resource for women
who have been abused
by their partner
and arrested
by the police**

If you have been arrested by the police for assault against your partner even though you are a survivor of emotional or physical abuse by that same partner, this brochure is for you. It is aimed at empowering you to get support and take action about your arrest.



**BATTERED WOMEN'S
SUPPORT SERVICES**



The Violence Stops Here

BATTERED WOMEN ARRESTED A GROWING PROBLEM

A growing number of women are accessing services and support at Battered Women's Support Services (BWSS) who have been arrested for domestic violence against their partners. In all of BWSS' cases, these arrests occurred despite the fact that the women were in relationships where they were themselves being abused by their partners. The women in these cases nearly always claimed to be trying to protect themselves when they were arrested, and often the police had been involved in relation to the partner's abuse on previous occasions.

WHAT ARE THE CONSEQUENCES OF BEING ARRESTED?

As you have experienced, there are extremely serious legal, social, economic and emotional consequences for women who are arrested. These consequences add to the huge burden already being shouldered by them as victims of relationship violence.

For example, like many other women, you might be experiencing the following effects from your arrest:

- **You may feel more vulnerable to further abuse by your partner.** You might be less likely to call the police in the future or the police may no longer be willing to protect you if you do seek protection. You feel abandoned by a system which is supposed to protect you.
- **You may have been forced to navigate a complicated and costly criminal justice system which you don't understand.** You have been denied legal aid. You can't afford to pay for a lawyer. You don't know where to go for legal help.
- **Your partner may have used the criminal justice system as another tool to emotionally abuse you.** You feel that your partner has gained more power over you by having you arrested. You feel that he is controlling and manipulating you by using the criminal justice system.
- **Your relationship with your children may have been affected.** Your arrest has been used against you in family law proceedings. The Ministry of Children and Family Development (MCFD) have become involved as a result of the arrest and you have lost custody. Your children are being placed at risk by being placed in the care of an abusive parent.
- **Your employment opportunities may have been affected.** If you have a conviction, you may find it difficult to find or remain in employment in some occupations.
- **Your immigration status may have been affected.** If you have a criminal conviction, this may make you inadmissible to remain in Canada.

WHY ARE WOMEN BEING ARRESTED?

It is difficult to say exactly why so many battered women are being arrested, but the large amount of literature on this subject indicates it is a growing problem across Canada.

Some sources say that women are being arrested in greater numbers because of the application of pro arrest, pro charge, no drop and mandatory arrest policies by the police (often collectively referred to as 'mandatory charge' policies). Police might feel like they should arrest any party who has perpetrated violence, regardless of the context. Unfortunately, these arrest policies are being used against the very people, battered women, whom they were designed to protect.

There are other factors which may be at play when the police decide to arrest a battered woman for domestic violence:

- police may not be undertaking an adequate assessment of the situation to identify the primary aggressor in the relationship;
- police may view the credibility of the parties according to their own prejudices, assumptions and biases;
- police may tend to arrest the more distressed, emotional party (often the battered woman);
- police may tend to accept the calm, rational, "reasonable" account given by the real perpetrator;
- police may view Aboriginal women, immigrant women and/or women of colour as being more susceptible to using violence and therefore arrest them.

WHAT SHOULD POLICE BE DOING?

The RCMP has a specific policy meant to protect women who may use violence in situations where they are not the real perpetrator of ongoing abuse. The “primary aggressor” policy requires police to consider:

- what is the intent behind the law and policy designed to protect victims of relationship violence;
- who has suffered the most extensive physical and/or emotional damage and who received treatment for that injury;
- who has the superior physical strength and skills for effective assault;
- what is the history and pattern of abuse in this relationship.

BWSS believes that police in all cases should thoroughly investigate the context, history and dynamics of relationship violence before they make the decision to arrest a woman for perpetrating domestic violence. They should:

- upon arrival at the scene, interview both parties separately for their account of what happened, and if possible interview any neighbours or family friends who may have information regarding the abuse;
- if the woman is an immigrant woman who does not speak good English, provide a qualified interpreter to translate;
- question the woman about the history of abuse and violence in the relationship;
- investigate any claims of self-defense made by the woman, and whether her use of violence was legitimate;
- assess which party is more dangerous, physically imposing, and in control of the situation;
- carefully assess any injuries sustained by both parties (including whether they are likely to have been sustained in self-defense);
- conduct a comprehensive risk assessment of the situation and help the woman prepare a safety plan;
- conduct detailed background-checks to assess whether the police have been called previously in relation to violence in the relationship, and whether the man has a criminal history in relation to domestic violence generally.

If it is not clear immediately who the dominant aggressor is, then police should not rush to arrest, but make further investigation using record searches, witness interviews, and follow up inquiries.

If the police have not followed the steps outlined above, then you may consider taking action in relation to your arrest, including by filing a police complaint or agreeing that your case details be used for advocacy in this area. More details of possible options for you can be found in the “Take Action” section on the next page.

WHAT CAN YOU DO?

1. BE INFORMED • Be informed and educated about the dynamics of woman arrest, and the relevant police and Crown Counsel policies applying to your situation. Know that you are not alone in your arrest experience.

2. GET SUPPORT • Being arrested takes an enormous emotional toll, and it is very important that you get appropriate support, both emotional and legal.

Battered Women's Support Services provides emotional and legal support, counseling and advocacy to women who have experienced abuse. You can call Battered Women's Support Services on **604-687-1867** with any questions and we'll support you to find solutions.

Following is a list of some of the other services available in the Lower Mainland if you have been arrested and need support.

Legal representation and advice

- Legal Services Society Legal Aid: 604-408-2172
- Law Students' Legal Assistance Program at UBC: 604-822-5791
- First Nations Legal Clinic: 604-684-7334

Emotional support and counseling

*When you call crisis lines, transitions houses, and community-based victim services organizations for assistance, it is very important that you state at the outset that although you have been arrested, you are not the primary aggressor in the relationship. If you have any problems accessing appropriate support in your area (because organizations decide that you are not a victim), please **call BWSS on 604 -687-1867** and we will help you to find the support you need.*

You can call the **VictimLINK helpline on 1800-563-0808** to find out what crisis lines, transition houses and community-based victim services are available near you in British Columbia.

3. TAKE ACTION • There are a variety of ways to take action about your arrest. You should speak to your victim services support worker or legal advocate about the following possibilities for advocacy:

- Ask your victim services support worker or legal advocate to write to police and/or crown counsel requesting that your charges be dropped (and alleging the failure to follow policy, if relevant).
- Ask your victim services support worker or legal advocate to help you file a formal written complaint about the police's conduct in arresting you, the woman to either the Commission for Public Complaints Against the RCMP (if RCMP officers arrested you) or the Office of the Police Complaint Commissioner (if municipal police officers arrested you).

You should be aware that there are many problems with the police complaints system in Canada, not least of which is that the police investigate the police. Nevertheless, making a formal complaint in writing means that your case is put on the record, and the police are forced to respond to your allegations (rather than the other way around). You can ask your victim services support worker or legal advocate to go on the record as a co-complainant and accompany you to any interviews or meeting with the investigating officers to ensure that you receive appropriate emotional support during this process.

- Give consent to your victim services support worker or legal advocate to use particulars of your case to advocate to law enforcement agencies and Government for reform of both policy and practice in this area.

You may have other legal options available to you, such as lodging a discrimination complaint with the BC Human Rights Tribunal or filing a small claim.

Resources in British Columbia

VictimLink

VictimLINK is a toll-free, BC-wide 24-hour crisis line. VictimLINK provides information and referrals for all kinds of crimes including sexual assault, violence in relationships, elder abuse, and adult survivors of physical or sexual abuse. VictimLINK provides service in 130 languages and dialects, including 17 North American aboriginal languages. VictimLINK is TTY accessible and provides interpretation services for all major languages.

TTY 604-875-0885.

Collect TELUS Relay Service at 711

Toll-free 1-800-563-0808

Website www.victimsinfo.ca/services/victimlink

Police

In case of an emergency or if you are afraid of your safety you have the right to call the police. **CALL 911** or your local police.

Transition House for Women and their children in BC

The BC Yukon Society of Transition Houses (BCYSTH) is a non-profit association of transition houses, safe homes, second stage houses, and other groups, which serve the needs of abused women and their children.

Toll-free 1-800-661-1040

To inquire about a transition house in your area

Website www.bcysth.ca/index.html

For services throughout BC and the Yukon.

Victim Services and Crime Prevention Division, Ministry of Public Safety and Solicitor General

The BC Government funds over 160 programs, operating out of non-profit agencies and police detachments that provide information about the justice system, practical help, emotional support and referrals to other appropriate programs.

For more information contact Enquire BC:

In Victoria 250-387-6121

In Vancouver 604-660-2421

Elsewhere in BC 1-800-663-7867

Outside BC 604-660-2421

Website

www.pssg.gov.bc.ca/victim_services/index.htm

Resources for Aboriginal Women

Aboriginal Transition Houses and Family Violence Crisis Lines

Toll-free 1-800-563-0808

VictimLINK Phone Line (24 hours)

Aboriginal Canada Portal

The Aboriginal Canada Portal is a window to First Nations, Métis and Inuit online resources and government programs and services.

Toll free 1-888-399-0111

Website

www.aboriginalcanada.gc.ca/acp/site.nsf/en/index.html

Indian Residential School Survivors Society

The IRSSS is a non-profit Aboriginal organization. The IRSSS helps Aboriginal people in BC to address/recover from generational effects of residential school Nation-wide 24 hours service

Phone 1-800-925-4419 (National Support Line)

Toll-free 1-800-721-0066

Resources for Non-status, Refugee and Immigrant Women

AMSSA

AMSSA is an affiliation of Member Agencies providing immigrant settlement and multicultural services in communities throughout BC.

Phone 604-718-2780 or 1-888-355-5560

Website www.amssa.Org

Immigrant Services Society of BC

ISSofBC provides a variety of services to immigrant and refugee communities in the Lower Mainland. ISSofBC plays an important role in the settlement, education, and integration of immigrants from the day they arrive in Canada. ISSofBC is a friend to newcomers, assisting with initial settlement needs and appropriate language and employment training, and helping to establish networks in their communities.

Phone 604-684-2561

Vancouver and Lower Mainland Multicultural Family Support Services

Provides culturally sensitive services to immigrant and visible minority women and children in cases of violence in intimate relationships. Service is offered in many languages.

Phone 604-436-1025

Website www.vlmfss.ca

Resources for People with Disabilities

BC Coalition of People with Disabilities

BCCPD is an umbrella disability rights group. They can direct you to other services and disability resources in BC

Phone 604-875-0188 **TTY** 604-875-8835

Website www.bccpd.bc.ca

Resources for Lesbian Gay Bisexual Transgender community

Prideline

Prideline is a peer support/information/referral phone line serving the LGBT communities both locally and province wide. Prideline offers referrals to social service agencies, support groups, queer-friendly doctors or therapists; and information on services offered at Qmunity. In addition Prideline offers peer support services on issues ranging from coming out, relationship conflict, work place difficulties, and parenting issues to calls touching on same sex domestic violence and suicide.

Phone 604 684-6869 in Van. Lower Mainland:

Toll-free 1-800-566-1170 in BC

Website www.qmunity.ca/adults/prideline/

Resources for Seniors

BC Coalition to Eliminate Abuse of Seniors

BCCEAS works to prevent elder abuse and to provide assistance and support to older adults that are, or may be, abused and those whose rights have been violated.

Phone 604-437-1940 local

Seniors Information & Help Line

Toll-free 1-866-437-1940

Website <http://bcceas.ca/>

Legal aid

The Legal Services Society has a range of free services for people who have a legal problem but cannot afford a lawyer. LSS is the non-profit organization that provides legal aid to British Columbians. Legal aid services include:

Legal information through legal information outreach workers, as well as publications in many languages and the Family Law in BC **website** www.familylaw.lss.bc.ca

Legal advice from duty counsel lawyers at most courthouses. You can also get help from family advice lawyers at several family justice centres.

Phone 604-408-2172 in the Lower Mainland

OR 1-866-577-2525 outside the Lower Mainland

Legal representation from a lawyer for those who qualify and have serious family, child protection, or criminal law issues. It is also available for some immigration, mental health, and prison law matters.

You can apply in person at a legal aid office, or over the phone by calling the Call Centre. If you have to call long distance to reach a legal aid office, call Enquiry BC and ask for a transfer to the office number you want (free call):

Vancouver 604-660-2421

Victoria 250-387-6121

Outside Victoria & Vancouver 1-800-663-7867



For more information please contact BWSS' Intake and Crisis line between 10am and 5pm on weekdays and until 8pm on Wednesdays.

604-687-1867



BWSS

is currently undertaking a law reform project on the issue of woman arrest, and is keen to speak to, advocate for and provide support to women who have been arrested.

Please contact BWSS' Intake and Crisis line between 10am and 5pm on weekdays and until 8pm on Wednesdays at **604-687-1867** for further information in relation to this project or to find the support you need to get through your arrest experience.

If you need support after these hours, please contact **VictimLINK on 1800-563-0808** for referrals.