

Helena Orton, Director of Litigation, Women's Legal Education and Action Fund, explained to the Committee the dilemma inherent in the mandatory charging policy.

One of the underlying problems is that there are not the supports for women to make the decisions to have a real choice about whether to participate in the criminal justice system. If she does want to leave her husband, the supports in order to be independent and get out of a battering situation are not there. While the whole movement towards charging has been extremely important in terms of recognizing violence against women, we cannot do it in a vacuum. We have to give women real options in order to address those sorts of changes. (4:39)

Peter Jaffe agrees that a charging policy works most effectively where support services are in place.

If the laying of charges is seen as an overall community response, where the police and support services from the shelter or other agencies work with the police from the moment the charges are laid, from the moment the assault had taken place through to the court appearance, then you are providing proper community service. (5:63)

John Kousik from the Montreal Urban Community Police Department, in his testimony before the Committee, acknowledged that many women are simply not able to testify against their partners because they require support that the police are not able to give. However, he believes that the advantage of the mandatory charging policy is that it sends out a message that violence against women in the home is unacceptable and a crime (10:20).

The Committee accepts that a necessary, albeit limited, element of the state's response to violence against women is the policy of laying charges in wife assault cases where reasonable and probable grounds exist for belief that an assault has occurred. It believes that federal and provincial governments should publicly direct police authorities diligently and consistently to support this policy. The mandatory charging policy should be extended expressly to cover sexual and physical abuse of women and children occurring both within and outside the family home.

RECOMMENDATION 17

The Committee recommends that the federal government take the lead role in stressing the importance of the mandatory charging policy in cases of physical and sexual assault and abuse by directing the R.C.M.P. to assiduously follow the policy. The federal government should also encourage provincial governments to direct their police forces to consistently support their respective mandatory charging policies.