

An Evaluation of Ontario's Mandatory Charge Policy: Peterborough 2009-10

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This TCCBE research project was conducted in collaboration with Peterborough Lakefield Community Police Service to evaluate the effectiveness of Ontario's Mandatory Charge Policy (OMCP) in Peterborough. A combination of interviews with various stakeholders (including victims), observation, and quantitative analysis were used in the evaluation. The evaluation found that while OMCP can be a positive intervention under some circumstances, often it can alienate victims from the criminal-justice system. This problem is exacerbated by a court system that often does not meet the needs of victims, and a lack of appropriate community support services for victims. The evaluation concludes that if OMCP is to remain in place, there must be improvements in the responsiveness of the court system, and the provision of services for victims. An alternative mandatory intervention is also proposed. The evaluation also calls for more research in the area of determining victims' opinions about the OMCP process at various points instead of only at the point of police intervention.

Executive Summary

The following is an evaluation of Ontario's Mandatory Charge Policy (OMCP) in Peterborough. It was conducted from November 2009 to April 2010, as a research project by two fourth year students from the International Development Studies class *IDST 422: Assessment of Development Projects* at Trent University for the Peterborough Lakefield Community Police Service (PLCPS), and facilitated by the Trent Centre for Community-Based Education (TCCBE).

The evaluation examined the effectiveness of OMCP, looking specifically at the strengths and weaknesses of the policy with regards to how well it protects victims of intimate-partner domestic violence from further incidents of violence, and how well such an intervention serves the needs of victims.

The research for the evaluation combined a review of previous literature on the subject; interviews with police, victims and community service agency representatives; observation with police and in court; and a quantitative analysis of PLCPS arrest reports.

The evaluation revealed that while the removal of the burden and responsibility to lay charges against their partner was a positive, empowering experience for some victims, for many it was not. For victims in high-risk situations or who were ready to leave their abusive relationship and had the resources to do so, OMCP could be understood as a necessary and needed policy for intervention. For others who may not be ready to leave their abusive partner or may not have the resources to do so, OMCP can be a long and fruitless detour through the criminal-justice system before couples reunite.

Whether police intervention is necessary or not, a lack of relevant and pro-active community support services, and often unsatisfactory court outcomes may be leading to a trend of non-reporting and/or non-disclosure among victims who have experienced the OMCP process. Non-reporting seriously undermines the objective of OMCP, which is to protect victims of domestic violence.

The recommendations included in the evaluation centre around two options for improving OMCP and mitigating some of the policy's unintended consequences, particularly the risk of non-reporting. The first option leaves Mandatory Charge in place, but calls for a significant improvement in both the delivery of community support services and in the court process. The second option re-introduces limited discretion to police officers to refer minor or trivial domestic occurrences where probable grounds exist for an arrest to an alternative mandatory intervention, such as overnight custody and counseling.

The evaluation also offers recommendations for future research to better understand victims' perspectives on the OMCP process and how to improve it. Foremost among these is the need to measure victims' support for charges against their partner both at the beginning of police intervention and at the end of court proceedings.

Table of Contents

Executive Summary	1
Table of Contents	3
Background Information Concerning the Policy	5
<i>Origin of the Policy</i>	5
<i>Goals of the Policy</i>	7
<i>Who's involved in the Policy?</i>	8
Description of the Evaluation Study	9
<i>Purpose of the Evaluation</i>	9
Research Questions	9
Research Context	9
Research Constraints	10
<i>Evaluation Design</i>	10
Limitations of the Design	12
Measurement Tools	13
Data Collection Procedures	14
Findings	17
<i>Police Interviews</i>	17
Support for OMCP	17
Burden on Victims	18
OMCP and Police Perceptions of Domestic Violence	19
Feared Consequences of OMCP as an Extreme Policy Reaction	20
Training and Confidence	21
Police and Community Services	22
<i>Victim Interviews</i>	22
Victim Knowledge of OMCP	23
Victim Opinion of OMCP	23
Implementation and Outcomes of OMCP	24
Victims and Community Services	25
Impact of OMCP on Victims and Their Families	26
<i>Community Service Agency Interviews</i>	27
Perceived Unintended Consequences	27
OMCP as a Weapon of Violence	27
CSA Perceptions of Police	28
Gender and OMCP	28
(Dis)Empowerment of Victims	29
Victims' Resources and Their Need for CSAs	29
OMCP and Children	29
Managing the Offender	30
Information Sharing	31
Was It Worth It?	32
<i>Observational Findings</i>	32
Police Observation	32
Court Observation	33
Community Service Observation	33

<i>Quantitative Analysis</i>	34
Gender and Charges Laid in Domestic Occurrences	34
Female Victims' Support for Charges Against Their Partners	35
Victims' Desire for Charges by Who Called the Police	36
Two Conflicting Trends	37
Resolving the Ambiguity	39
The Challenge of a Unidimensional Perspective	40
Aggregate Trends in Peterborough's Domestic Violence Statistics	41
Discussion of Findings	43
<i>Effectiveness of OMCP</i>	43
Aggregate Measures	43
Individual Standards	43
Measuring Victim Opinions Through Time	44
<i>Unintended Consequences</i>	45
Unnecessary Criminalization	45
Detour Through the Criminal-Justice system: Victims Who Do Not Want Charges	46
The Court Process: The Danger of Alienation and Incommensurate Outcomes	46
Quantitative Support for Victim Alienation and Non-Reporting	47
<i>Community Services and Victims Involved in OMCP</i>	48
Lack of Victim Input Into Community Services	49
Coordination and Community Services	50
Police Training and Victim Input	51
Summary	51
Costs and Benefits	53
<i>Costs</i>	53
<i>Benefits</i>	53
Conclusions and Recommendations & Options	54
<i>Conclusions</i>	54
<i>Recommendations & Options Regarding OMCP</i>	54
Option 1: Continue With Mandatory Charging	54
Option 2: Re-introduce Limited Police Discretion and a Mandatory Alternative to Charges	55
Token vs. Substantive Victim Participation	56
Community Education Regarding OMCP	57
<i>Recommendations for Future Research</i>	58
Methodological Improvements	58
Areas For Future Research	59
References	61
Appendices	62
<i>Appendix A: Semi-Structured Interview Schedules</i>	62
Police	62
Victims	63
Community Services	63
Victim Services	64
<i>Appendix B: Quantitative Variables and Possible Data Values</i>	65

Background Information Concerning the Policy

Origin of the Policy

Mandatory Charge was tentatively initiated in 1982, when the “Solicitor General of Ontario issued a policy directive that police must lay charges in all instances where there were reasonable grounds to believe that domestic violence had taken place.”¹ This marked the beginning of a process of criminalizing domestic violence by demonstrating society’s intolerance for abusive behaviour. Although Mandatory Charging was instigated in the early 80s through the discretion of police, it was not until a study conducted by Peter Jaffe in 1983, that Mandatory Charging was analyzed and seriously re-considered for its importance in ensuring the safety of women and children experiencing domestic violence in Ontario. The common concern at this time was that female victims were being manipulated and coerced through the power dynamics within their relationship, to withdraw any charges being laid against their partner. Jaffe’s research confirmed the complaints put forward by feminists, such as Linda McLeod and Deborah Sinclair, which had for some time expressed concerns over the lack of police intervention, and serious consideration given towards domestic violence calls. Jaffe’s results proved that in London, police laying charges resulted in a significant decrease in charges being withdrawn or dismissed, contrary to the common myth that victims would be less cooperative due to the formality and criminal nature of contacting police. After interviewing 73 female participants who were identified as victims of domestic violence, the study proved that victims felt a higher degree of support from police than what had been voiced through a previous study Jaffe conducted in 1982.² In addition, “the vast majority of victims indicated that the police and court process played a significant role in reducing or terminating the violence regardless of

¹ Joint Committee on Domestic Violence. (1999). *Working Toward A Seamless Community and Justice Response to Domestic Violence: A Five-Year Plan for Ontario*. Toronto: Ministry of the Attorney General,44.

² Jaffe, P., Wolfe, D. A., Telford, A., & Austin, G. (1986). The Impacts of Police Charges in Incidents of Wife Abuse. *Journal of Family Violence* , 1 (1), 47.

whether their spouse was found guilty of an offence.”³ However, victims indicated a need for more support and legal advocacy in navigating the court process and had voiced some dissatisfaction in the level of support offered by the Crown Attorney, which was further highlighted through interviews Jaffe had conducted with the London police.

Mandatory Charging was not revisited until the May/Iles murder/suicide case of 1996, when Arlene May, a woman who had experienced long-term abuse, was murdered by her partner Randy Iles on March 8, 1996.⁴ This tragedy led to an important report and review of provisions in Ontario of discretion in intimate-domestic violence cases, and the development of a comprehensive action plan across all sectors of the community. This triggered an inquest into the deaths of Arlene May and Randy Iles, initiated through the Office of the Chief Coroner, who believed that it was time for a thorough examination of domestic violence situations in Ontario.⁵ Witnesses gave evidence concerning domestic violence situations, primarily related to the criminal justice system’s response to domestic violence. The jurors gave 213 recommendations directed mainly at the Ontario government, with intentions to make the system more responsive to the needs of women and children experiencing domestic violence.”⁶ December 1998, the Joint Committee on Domestic Violence compiled “A Five-Year Plan for Ontario” around the justice response to domestic violence, where Strategy 4 of 5 was specifically designed to “Implement a standardized, specialized police response to domestic violence across the province”. Strategy 4 emphasized that the “Ministry of the Solicitor General had developed a Draft Model Police Response to Domestic Violence in order to ensure a standardized

³ Jaffe, P., Wolfe, D. A., Telford, A., & Austin, G. (1986). The Impacts of Police Charges in Incidents of Wife Abuse. *Journal of Family Violence*, 1 (1), 47.

⁴ Hague, G., Kelly, L., Mullender, & Audrey. (2001). *Challenging Violence Against Women: The Canadian Experience*. Great Britain: The Policy Press, 33.

⁵ Joint Committee on Domestic Violence. (1999). *Working Toward A Seamless Community and Justice Response to Domestic Violence: A Five-Year Plan for Ontario*. Toronto: Ministry of the Attorney General, 4.

⁶ Joint Committee on Domestic Violence. (1999). *Working Toward A Seamless Community and Justice Response to Domestic Violence: A Five-Year Plan for Ontario*. Toronto: Ministry of the Attorney General, 4.

approach to police officer's investigation of a domestic violence case."⁷ This Draft Model Police Response to Domestic Violence would become known as "Ontario's Mandatory Charge Policy", effectively implemented through the Police Adequacy Regulation on January 1, 2001.⁸ This led to a change in policy, whereby the Policing Standards Manual now clearly states that "in all domestic occurrences an officer must lay a charge where there are reasonable grounds to do so."⁹ This means that police are expected to charge and arrest irrespective of a victim's wishes, and carry out a thorough investigation in order to compile as much evidence as possible. Crowns are to meet with victims and prosecute even if victims are reluctant to testify, and victims are to be provided with support, case information and notification of decisions/releases. Ontario's Mandatory Charge Policy (OMCP) was therefore implemented out of the rising concern of violence against women throughout the 1970s and 80s, and further encouraged in Ontario through a lack of criminal justice response to tragedies such as the May/Illes case.

Goals of the Policy

The policy is intended to protect victims of domestic violence from any threat or confusion that they may face in dealing with the decision to charge, instead placing the responsibility solely with police and the criminal justice system. In other words, it is supposed to remove the burden of having to press charges from the victim. The priority of charging the accused – whether the victim approves or not – was implemented to send a message of zero tolerance to a perpetrator, while simultaneously protecting the victim, and creating a space for public intervention. It is therefore evident that the policy was intended to create a zero tolerance of domestic violence within the public sphere, punishing anyone who participates in

⁷ Joint Committee on Domestic Violence. (1999). *Working Toward A Seamless Community and Justice Response to Domestic Violence: A Five-Year Plan for Ontario*. Toronto: Ministry of the Attorney General, 44.

⁸ Joint Committee on Domestic Violence. (1999). *Working Toward A Seamless Community and Justice Response to Domestic Violence: A Five-Year Plan for Ontario*. Toronto: Ministry of the Attorney General, 44.

⁹ Ontario Ministry of the Solicitor General. (2000). *Ontario Policing Standards Manual*. Government of Ontario, LE-024.

any such behavior, therefore increasing the level of protection for victims of intimate-partner domestic violence.

Who's involved in the Policy?

Initially OMCP was intended to protect women and children from male abusers of intimate-partner domestic violence. However, OMCP was implemented under the language of gender-neutrality, therefore applicable to any gender. The policy is intended to be inclusive, therefore protecting *all* victims of intimate-domestic violence, creating safer homes, families, and thus communities to live in. However, there are concerns that accessibility to services, and understanding of the criminal justice system in Ontario can range from victim to victim along socio-economic, linguistic, cultural, and racial divides. Essentially, OMCP is still *intended* to serve all victim of intimate-partner domestic violence.

Description of the Evaluation Study

Purpose of the Evaluation

This evaluation of Ontario's Mandatory Charge Policy (OMCP) was initiated by the Peterborough Lakefield Community Police Service (PLCPS) to assist community service agencies, police, and justice professionals to gain a better understanding of the effectiveness of the policy. In particular, the evaluation was to look into the experiences of victims to determine how well OMCP served their needs and well-being. The project was also intended to help organizations working with victims of domestic violence to understand gaps in service that might exist. The goal was to gain as much insight from victims of domestic violence as possible about their experience with OMCP, and to understand how it can be improved to better benefit victims.

Research Questions

The evaluation aimed to answer the following questions:

1. What was the rationale behind the implementation of "Ontario's Mandatory Charge Policy"?
2. What has been done to evaluate the effectiveness of the OMCP?
3. What are the strengths of the OMCP from the perspective of justice professionals, community services and victims?
4. What are the problems, barriers or limitations with the OMCP from the perspective of justice professionals, community services and victims?

Research Context

The evaluation was carried out by two fourth year undergraduate students from Trent University as the community placement component of *IDST 422: Assessment of Development Projects*. The placement was facilitated by the Trent Centre for Community-Based Education (TCCBE), and hosted by Victim Services at PLCPS. The evaluation was initially a component of a concurrent Women's Studies project undertaken by Rachael Edge that was deemed too large, and thus was broken into two separate for-credit projects. All quantitative and qualitative

research was conducted under the supervision of Victim Services. All interviews were conducted at the police station, with the exception of the community service agencies, which were conducted at the agency offices.

Research Constraints

The research was constrained by a number of factors, but most of all by time. Given that the evaluation was only one credit of a five-credit course-load for the evaluators, there were serious constraints on how much time the evaluators could contribute to the project. The other major constraint was the highly sensitive nature of the inquiry that the evaluators were making with victims. Due to the high risk of re-victimization of victims of domestic violence, it was not possible to ask some questions to victims that could have yielded important data about their true feelings and experiences with OMCP. For example, the evaluators would have liked to ask victims if they had been assaulted subsequent to police intervention, however this type of question was deemed inadmissible because of disclosure and re-victimization issues.

Another significant constraint was the hours during which Victim Services and the evaluators could attempt to contact victims to arrange interviews. All calls were made during business hours (8am-4pm) on weekdays; thus there was no answer at the number listed for the majority of victims solicited for interviews. Of less significance was the lack of a budget for the evaluation, which could have perhaps been helpful in offering a transportation allowance to victims to travel to the police station for interviews.

Evaluation Design

One advantage of the evaluation was that there was little attribution gap to grapple with: there is little doubt that it is OMCP that is responsible for removing accused perpetrators of domestic violence from their homes and putting them in custody. Needing only to accurately portray the effectiveness of OMCP rather than also having to first identify mandatory charge as the causal factor impacting on the lives of victims simplified the evaluation and allowed the evaluators to concentrate on exploring the impacts of mandatory charges.

The evaluation design is best characterized as taking an inductive approach, whereby the evaluators asked open-ended questions to all respondents, reviewed all relevant literature and allowed patterns in quantitative data to emerge through extensive analysis. In other words, the evaluators did not have a hypothesis they were trying to prove: the impressions of OMCP emerged gradually as more data was collected. An inductive approach was appropriate in this evaluation because it allowed analysis to emerge from patterns found in the data gathered. This was important because neither evaluator had any expertise in mandatory charge policies, nor did any prior research exist on this topic in the geographic area of Peterborough.

Qualitative data (literature review, open-ended interviews, participant observation, and observation) and quantitative data (analysis of arrest reports) were combined in the evaluation through a triangulation of methods to reach findings concerning the effectiveness of OMCP¹. This combination of qualitative and quantitative measures was selected to gain the benefits of both while mitigating some of the shortcomings of using each type of measure on its own.

The qualitative data gathered – primarily from interviews with community service agency representatives, police officers, and victims of domestic violence – attempts to portray a more holistic, complex reality² of Mandatory Charge cases and the context in which they occur. Though there were not any identified key criteria³ to measure in this evaluation, quantitative data was used to identify patterns of behaviour and overall trends, and to qualify or corroborate anecdotal data gathered from interviews.

¹ See Patton's discussions of how data can be combined to create a more holistic understanding of programs: Patton, M. (1990). Strategic Themes in Qualitative Inquiry. In *Qualitative Evaluation and Research Methods* (2nd Ed. ed., pp. 35-63). Newbury Park: Sage, & Patton, M. (1990). Qualitative Analysis and Interpretation. In M. Patton, *Qualitative Evaluation and Research Methods* (pp. 371-435). Sage.

² Stake, R. (2004). Criterial and Interpretive Evaluation. In R. Stake, *Standards-Based and Responsive Evaluation* (pp. 1-23). Sage.

³ Stake, R. (2004). Criterial and Interpretive Evaluation. In R. Stake, *Standards-Based and Responsive Evaluation* (pp. 1-23). Sage.

Limitations of the Design

The evaluation design was limited primarily in its scope. Due to time constraints, additional measures that would have increased the validity and reliability of the data could not be employed. In particular, a focus group with victims and an anonymous survey among police officers would likely have proved valuable if time had been available to conduct them. Similarly, the scope of the qualitative and quantitative measures used were also smaller in scale than would have been the case given more time to gather data. For instance, the number of interviews among all types of respondents would have been increased, and more years of quantitative data than just 2009 could have been analyzed.

Structurally, the evaluation design is limited by its single inductive stage. Ideally, the evaluators would have explored the data; come up with findings; tested those findings; and then refined them based on the tests. Such a multiple stage inductive-deductive-inductive evaluation could have produced more reliable findings⁴.

The design was also limited by ethical considerations. The evaluators were not permitted to contact vulnerable victims (either in shelters or whose safety was in jeopardy), or victims who still had matters before the courts⁵. While such a design was entirely necessary from an ethical perspective, it automatically eliminated important perspectives on OMCP, to the detriment of creating the most accurate picture as possible of experiences with Mandatory Charge in Peterborough. Thus, it should be acknowledged that there was an inherent bias in the self-selection of respondents to participate in the research, in that victims that were interviewed were likely those that had mostly positive experiences with OMCP, otherwise they likely would not have participated.

At a technical level, interviews with victims were also perceived by the evaluators to have been constrained because of certain circumstances. Interviews with victims conducted in person were done at the police station in a large

⁴ Patton, M. (1990). Strategic Themes in Qualitative Inquiry. In *Qualitative Evaluation and Research Methods* (2nd Ed. ed., pp. 35-63). Newbury Park: Sage.

⁵ 27 victims that would have been solicited to participate in an interview were eliminated because they still had matters pending before the courts.

boardroom with the Victim Services supervisor and the two evaluators interviewing the victim. Despite efforts to put the victim at ease, it is difficult to imagine that the setting and the interpersonal dynamics of these interviews did not prejudice victims' statements so as to not overtly criticize the PLCPS or Victim Services in spite of what could have been negative experiences with these organizations.

This interview arrangement was important for the safety of all parties, the confidentiality of victims' disclosure, and to ensure a professional standard in the conduct of the interviews to mitigate the risks of re-victimization. However, it should be noted that it was not the PLCPS that mandated the inclusion of the Victim Services supervisor in victim interviews, but rather the Ethics Review Committee for the simultaneous Women's Studies project being conducted by one of the evaluators. Nonetheless, it must be acknowledged that given this particular setup, the integrity of the data gathered in this method was likely compromised to the degree required for victims to not offend the PLCPS or the Victim Services supervisor. This issue will be addressed further in the 'Findings' section of the report.

Moreover, interviews conducted with victims by phone did not give the evaluators an opportunity to build trust or a rapport with the victims. The result was that answers given over the phone were much shorter and less revealing overall than the interviews conducted with victims in person.

Though the evaluation design was limited by a number of constraints, the combination of several qualitative and quantitative sources of data, and the inductive, exploratory approach⁶ taken offers a window into the effectiveness of OMCP which can be further explored and/or corroborated in future research.

Measurement Tools

As previously mentioned, a combination of qualitative and quantitative data gathering techniques were employed in the evaluation. The primary evaluation tool was semi-structured interviews, which were conducted with six police officers from

⁶ Patton, M. (1990). Qualitative Analysis and Interpretation. In M. Patton, *Qualitative Evaluation and Research Methods* (pp. 371-435). Sage.

PLCPS, five victims of domestic violence from the Peterborough area, the PLCPS Victim Services unit, and seven Peterborough community service agency representatives. Although multiple lawyers were contacted, they either did not consent to an interview, or never returned the evaluators' calls. A representative from the Crown Attorney's office did consent to a meeting, but declined to sign the consent form necessary for the inclusion of her/his responses in the evaluation. See Appendix A (page 64) for all interview schedules.

Additionally, participant observation was conducted during a 12-hour shift of a 'ride-along' with a PLCPS officer. Observation was conducted at Peterborough's Ontario Court of Justice to observe the context in which victims and those accused of domestic violence interact with the legal system. The evaluators also participated in a meeting of the Peterborough Domestic Abuse Network (PDAN). Furthermore, the evaluators conducted an extensive literature review surrounding mandatory charge policies, and domestic violence in general.

The quantitative tool used was an analysis of 124 intimate-partner domestic dispute-related arrest reports from the PLCPS for the calendar year of 2009. Important trends and data were identified from this analysis, even without the rigour of an intensive statistical analysis. See Appendix B (page 67) for the variables and data values gathered from each arrest report. There were no distinct measurement tools used to measure either policy implementation or outcomes. Each tool, including the quantitative analysis of arrest reports, examined aspects of both implementation and outcomes of OMCP.

Data Collection Procedures

Victims were contacted initially by Victim Services to gauge their willingness to participate in an interview. If the victim agreed, the evaluators would follow up within one or two days to schedule an interview. The sample of victims was drawn initially from the victims listed on the PLCPS arrest reports for 2009. Victims with matters still before the courts were excluded for disclosure reasons. Initially, an

attempt at quota sampling⁷ was made, drawing on circumstances identified in the quantitative analysis⁸, however the quota sample broke down when entire categories were eliminated due to non-response or pending cases.

The evaluators sought first victims involved in an assault as opposed to minor offences such as 'breach probation' or 'failure to comply', but this standard also quickly broke down for lack of respondents. Similarly, once the victim list from 2009 was exhausted, the evaluators selected cases from 2008, which yielded one further interview. Chain sampling⁹ was considered as a possible solution to the problem of non-response but was deemed to be unprofessional and potentially risked involving the evaluators in uncontrolled, high-risk cases where the evaluators could inadvertently compromise the safety of victims.

PLCPS constables were initially selected on the basis of their number of appearances in domestic occurrence arrest reports for 2009. However, due to scheduling conflicts and responses to calls for service, only one of the constables selected in this manner was interviewed. Two other constables were selected based on the rapport created with one of the evaluators during the police participant observation. Two higher-ranking officers were selected because of their extensive experience in the area of domestic violence. The final officer was chosen based on his rapport with one of the evaluators and his lengthy service with the PLCPS.

Community service agencies (CSAs) were selected and contacted by letter and follow-up email or phone call in early January 2010. CSAs were selected on the basis of their centrality to domestic violence in Peterborough. Every agency selected deals with victims and/or perpetrators of domestic violence on a daily basis. There were two additional CSAs that the evaluators felt were key players in the area of domestic violence in Peterborough that were not interviewed because of a failure to respond to multiple attempts to schedule meetings with them.

⁷ Nichols, P. (2002). Choosing the Sample. In Oxfam, *Social Survey Methods: A Fieldguide for Development Workers* (pp. 50-72). Oxfam.

⁸ For example: 'married, no children, first occurrence' or 'common-law, with children, did not want charge'.

⁹ Nichols, P. (2002). Choosing the Sample. In Oxfam, *Social Survey Methods: A Fieldguide for Development Workers* (pp. 50-72). Oxfam.

The quantitative analysis was conducted using the 124 arrest reports for intimate-partner domestic occurrences in the PLCPS 'Niche' database in 2009 under the heading of 'Domestic Dispute'. This represents a sample of approximately 45% of the total number (277) of intimate-partner domestic arrests in Peterborough for 2009¹⁰. Each report was read and entered into a spreadsheet under the various variables listed in Appendix B (page 67). The aggregated domestic violence statistics that the PLCPS must report to the Ministry of Community Safety & Correctional Services on a quarterly basis were also analyzed for the years available (2006-2009). However, the relatively short period for which statistics were available precluded a meaningful comparative analysis of the data.

¹⁰ The evaluators had attempted to conduct a comparative analysis using reports from the Niche database for before and after the implementation of OMCP, however the evaluators were not aware that such an analysis was not possible due to the fact that not all domestic-related arrests are reported under the heading of 'Domestic Dispute' in the Niche system. Thus, without searching all of the thousands of arrest reports for 2009, it was impossible to find all the arrest reports pertaining to intimate-partner domestic violence. It was not until the completion of the quantitative analysis – when discrepancies arose – that the evaluators were able to realize that a 100% sample was not possible.

Findings

Police Interviews

There was a striking similarity of responses from PLCPS officers, regardless of experience, rank, or gender. While there was a variation in the degree to which officers expressed their opinions and in the language used, the same themes and responses were repeated in each interview. Some officers emphasized certain points more than others, but the answers to each question were remarkably similar.

Support for OMCP

In the interviews, PLCPS officers generally believed that mandatory charge was a necessary policy and that it has served the intended purpose of taking the onus off of the victim to place the charge on an accused, who likely holds some sort of power over the victim. There is also an acknowledgement that this policy step was necessary because of the prior failure of police officers across the province to address domestic violence occurrences with an appropriate level of response. The lack of adequate response is illustrated in Box 1.

Box 1

Synopsis¹ of a PLCPS occurrence report from 1989

A female victim attended an ex-boyfriend's residence to discuss a more amicable termination of their relationship. The victim was very upset and distraught, and the accused became upset and physically assaulted the victim, resulting in a black eye and causing her to pass out momentarily. After discussing the matter with police, the victim decided not to press charges and to only file a report and have the police caution the accused. The accused was made aware of the possible consequences of his actions and advised not to contact the victim. The report concludes "no further action will be taken".

However, PLCPS officers interviewed also unanimously felt that the removal of discretion from officers on the road was a significant impediment to achieving positive outcomes in certain domestic occurrences. As Officer 4² put it:

¹ A full quotation of the report is not possible due to disclosure issues.

² To ensure confidentiality, officers have been assigned a number to represent them.

“I have experienced myself where the mandatory charge has actually done more harm than good, where discretion would have been the better of the options. I think in some cases we can actually break down a family that really shouldn’t have been. And with the only excuse being ‘I don’t have any choice. I have a mandatory charge, I have to do it.’ When you’re faced with a family that you’re now going to break apart over something that is simple or minor in nature, as far as an assault/behavior that could have been resolved otherwise, that’s a pretty lame excuse sometimes (laughs). And it’s hard for them to accept.”

There was a feeling of frustration and a lack of empowerment among officers who felt that though certain minor assaultive behaviour was certainly unacceptable, the consequences of laying a mandatory charge were unlikely to help the couple/family resolve the situation in a constructive manner (see Box 2). As Officer 2 described: “We solve one problem and give them 18 more”. Officers referred specifically to a number of shortcomings that hindered the support of victims and families to receive the services necessary to alter the trajectory of abusive relationships.

Box 2

“Nobody benefits [from OMCP]... We don’t win, the victims don’t win. They had to do something, but they took it to an extreme. There’s a time and place for charges, but we need discretion. We don’t look at the story anymore.” –PLCPS Officer 1

Officers described the failure of the court system to convict or punish offenders as a significant problem, which sends an ambivalent message to both victims and offenders about the seriousness with which society and the criminal justice system regards domestic violence: a mandatory charge on one hand, and then a peace bond, suspended sentence or less than a month’s jail time on the other. Officers also find that the community support services for victims often do not provide adequate support – particularly financial support – for victims who have been in abusive relationships, where they are often dependent on the abuser financially, physically, emotionally, and psychologically.

Burden on Victims

Officer 2 made the comment that victims usually take on the brunt of the burden of negotiating through the complex criminal-justice system, and often give up. He stated that victims should not have to be proactive about seeking out

services and information, otherwise they will most often not make use of the services available to them to get what they need. Every PLCPS officer interviewed made the case that because of the lack of support and coherent message from the criminal justice system after the initial charge, the removal of discretion from officers in domestic violence occurrences was having a negative outcome for many victims of domestic violence and their families.

The PLCPS officers interviewed had similar responses as to why victims of domestic violence call police in the first place. Each officer described that usually victims are “in panic mode” and “[t]hey want whatever is happening to them at that time, to stop. That’s all they think of.”³ Also, all officers interviewed agreed that victims generally do not have an understanding of OMCP, if they are aware of it at all, unless they’ve been through it before. Many officers related that victims would call police simply to have the accused removed from the residence, but would disclose information that would lead the officer to be required to lay a charge. Most often, victims are dismayed that they do not have the discretion to determine whether a charge should be laid on their partner or not. Victims themselves often become upset and uncooperative at the prospect of having their partner arrested and removed, and the attendant consequences of laying a criminal charge. Officers 2, 4 and 5 specifically described OMCP as “disempowering” certain victims.

Furthermore, five of six officers felt that this disempowerment of certain victims could lead victims to not report future instances of domestic violence because of how disempowering the experience of OMCP was for them. As Officer 5 stated: “I can guarantee you that there’s women that don’t call the police because of this policy.” This reality demonstrated a genuine concern that OMCP may be silencing some experiences of intimate-partner domestic violence within the community.

OMCP and Police Perceptions of Domestic Violence

The perception among the PLCPS officers interviewed was also that the introduction of OMCP has fulfilled its intended purpose to send a message that there is zero tolerance around domestic violence occurrences, which is why they are

³ Officer 2

taken much more seriously throughout the PLCPS. Some claimed that OMCP has completely changed the organizational culture around the treatment of domestic violence occurrences. OMCP has brought an understanding to officers about the importance of a public response to intimate-partner domestic violence, as it is no longer accepted to be treated or understood as a private matter. All officers interviewed, no matter their level of experience, each related in their own words a complex understanding of the dynamics of intimate-partner abuse and the dangers associated with allowing violence to go unchecked. Similarly, when asked to rank the seriousness of domestic occurrence calls, every officer rated them among the highest priority calls. Officer 5 stated: “Domestic violence is really serious. I would go to a D.V. quicker than I would go to an alarm call”, which illustrates the quick response, and thus priority, domestic disputes are now given by PLCPS officers.

Feared Consequences of OMCP as an Extreme Policy Reaction

A common sentiment was that the ‘pendulum’ of domestic violence policy had swung from one extreme of inaction by the criminal justice system to the opposite reactionary extreme of overreaction⁴. Officers all stated that the pendulum needed to now return to a ‘middle’ area, where limited discretion is restored to them (see Box 3). Officer 5 shared that they believed the pendulum would not return to the middle (meaning a small degree of police discretion) until a case occurs where a victim is killed by her partner because she/he does not report the violence to police for fear of having to go through the OMCP process. The range of responses as to how to improve OMCP was from no suggestions to descriptions of alternative courses of action, including overnight custody and mandatory counseling.

⁴ The metaphor of Ontario’s domestic violence policy as a pendulum was brought up in several informal conversations with officers and community service personnel and was subsequently adopted as an informal conceptual model for the evaluators. Interestingly, the metaphor was alluded to in almost every police and community service interview, without prompting from the evaluators.

Box 3

“Personally, I think the pendulum is going to come back a little bit. It’s going to have to. I don’t know how that’s going to happen, but I think it’s out there, and it’s in court, and it’s coming back our direction where people are going to, the alleged victims of domestic violence, are going to say ‘we don’t want the police to come any more’. I can say from personal experience that I’ve been to calls and we’ve walked out of, where I walk out of the house and go get into my car and say to my partner, ‘they’re never going to call us again’. You know, so if we don’t rein it in, if we don’t find a better way to handle it, then we are going to end up back where we were, on the other end, where people weren’t reporting. So we need to find a balance there.”

–PLCPS Officer 4

Training and Confidence

Interestingly, while the younger officers interviewed felt that they had enough training to deal with domestic occurrences and the implementation of mandatory charging, all officers interviewed who had more than 15 years experience in policing felt that either all officers could benefit from more training, or at least that junior officers could. Those who felt that junior officers needed more training stated that young officers often do not have the life experience (a husband/wife and children) necessary to give advice to couples at a domestic occurrence. As one experienced officer put it: “We train regularly with our guns, so why wouldn’t we train regularly for a type of call that we get frequently?” Training was also suggested to avoid the complacency that can set in when officers have returned to the same dwelling and intimate couple numerous times.

All PLCPS officers who were interviewed admitted difficulty in determining the primary/dominant aggressor in domestic occurrences. Complicating circumstances were described as the fact that when police arrive, sometimes the partners do a “reverse role” whereby the victim becomes aggressive and hysterical, knowing that they are protected by the abuser with the police now at the scene, and the accused becomes very passive. Every officer also pointed out that evidence of a physical wound by itself did not constitute reasonable grounds for laying a charge against the other party. One junior officer admitted that they could use “more clarification” on the primary/dominant aggressor policy.

Another consistent response among officers interviewed was that domestic violence occurrences take a significant amount of time and resources to respond to.

Officers stated that if charges were laid, meeting all of the extra requirements and filling out all the paperwork could take anywhere from five hours to an entire shift and beyond. As Officer 1 described: “I can’t give you a percentage, but if you get a domestic, that is your shift essentially”. Three of six officers interviewed did express a degree of frustration with the amount of time put into a domestic occurrence investigation only to have the case fall apart or not get the desired outcome in court. One veteran officer conceded that “it doesn’t always show what you are doing is worth the effort”. Despite this frustration however, only one officer interviewed felt that too much time was dedicated to responding to domestic occurrences. The dominant view was more in line with the statement that: “[a]ny taxes on our time or resources that help to end the cycles of abuse are worth it.”

Police and Community Services

One area of varying police responses was the ability to identify local community services for victims of domestic violence. While all could sufficiently identify PLCPS Victim Services and CAS (since they are mandated to refer to them), there was little overlap in any other responses. Mentioned were VWAP, the John Howard and Elizabeth Fry Societies, the Sexual Assault Centre, the Four Counties crisis hotline, CMHA, Crossroads Shelter, family doctors, and counseling services. However, no two officers identified the same services with the exception of Victim Services and CAS. Some officers stated that it is simplest to call Victim Services and let them act as a referral service, while others preferred to make specific referrals themselves.

All officers interviewed were unequivocal that there should be no gender preference under OMCP to account for the historical tendency of males to be the aggressors in domestic violence incidents. Every officer stated that the law should be applied impartially in all cases. They also all dismissed the notion that women needed special treatment, and instead claimed that the power dynamics of an abusive relationship are similar whether it is a male or female that is the abuser.

Victim Interviews

As discussed in Part 3, there were significant constraints on the gathering of data from victims of domestic violence in Peterborough. Out of 38 victims

contacted, ten consented to be interviewed. There was no answer at the phone numbers listed for 15 victims (each number was tried at least once on at least two separate occasions); the number listed was out of service for 12 victims; and 1 victim declined to participate.

However, three of the ten victims that consented to be interviewed (including the only male victim that consented) never showed up for the interview at the police station and could not be reached again; another missed three scheduled interviews at the station and was never interviewed; and the fifth avoided scheduling an interview in five separate phone calls until finally admitting that she did not wish to be interviewed about her experience. While the majority of victims the evaluators tried to contact could not be reached, it is important to note that more than half of those that were contacted (six of eleven) either declined to participate outright, or sought to avoid conflict by consenting to an interview and then not showing up for it.

The partners of all five victims that were interviewed were charged with assault or more serious charges. The two victims that actually came to the police station for an interview had had overall positive experiences with the PLCPS and the Mandatory Charge in which they had been involved. Of the three victims who were interviewed by phone, the two that agreed to schedule an interview were supporters of OMCP, while the lone victim that consented to an impromptu interview had a negative experience with Mandatory Charge.

Victim Knowledge of OMCP

Only one of the five victims interviewed had heard of OMCP prior to the occurrence that led to the arrest of their partners. The other four victims came to know about OMCP after police intervention. Two of the four who were unaware of the policy at the time of police intervention mentioned that they believed that as the victim and complainant they would have the discretion to lay charges against their partner.

Victim Opinion of OMCP

Though all five victims interviewed called police themselves seeking assistance, there was a wide range of support for OMCP among victims. Victims 1, 2

and 4 thought it was a necessary intervention from the outset, while Victim 5 was initially apprehensive but then came to believe that it was a necessary policy after the fact (see Box 4), and Victim 3 maintained that police should have discretion as to when to lay a charge because she did not feel the charge was warranted against her husband.

Box 4

“Initially, in the early stages, I was very apprehensive. I did not want police to be involved. Because I was afraid of the repercussions, and what they would be on my home life, and for me. When I first came in, I was really interested in speaking to victim services, [I] wasn’t concerned with charges laid. When you live it... you think it’s normal behaviour. Initially, I was really apprehensive...I was against it. Once I was told that that’s how it [OMCP] worked, I thought ‘wow I made a mistake in coming, I have to get home: I have to get out of here’. Later though... what do I think of this, I think it’s how it should be. Because a person who is in the position, we are not able... well, maybe not *not* able, but not *willing* to make that decision to charge. It’s not that we are not able, it’s that we are not willing to make that decision ourselves. -Victim 5

Among victims who supported OMCP (both initially and afterward), each described in their own way that the policy was beneficial because it removed the burden of pressing charges from the victim. As Victim 1 put it: “I think it [mandatory charge] is a good thing, because some people might phone just to get the person out of the house, but they don’t have the guts to go through with it themselves.”

Implementation and Outcomes of OMCP

Although four of five victims interviewed supported the idea of OMCP in their specific cases, each had concerns with the effectiveness of the execution of the policy. Victim 1 was not told when her partner was released on bail or when he was released on probation until two weeks after. Victim 5, after reporting incidents of domestic violence at the PLCPS station, was told that there were no grounds for an arrest. She therefore asked police not to contact her partner for fear of angering him because she had approached police. A PLCPS officer assured the victim that they would not contact her partner, however before she had even returned home her partner had been contacted by the PLCPS (see Box 5).

Box 5

“Our home life became more volatile than it had been pre-police involvement. I knew something extreme had happened, and I felt I had been let down by the police... very let down. I know they are here to help. but I felt the line had been crossed, big time, and I thought for certain charges would be laid the second time... and they weren't. And when I found out there weren't, I asked if they would please not contact him... because I know if they did, I would be done. And they said they wouldn't... and then they did. And I went home... and he went crazy. I felt really victimized by the police department... a couple officers saying they weren't talking to me, arms folded. I felt revictimized. I felt at this point that there was nothing I could do. I felt there was nothing that was going to happen. But I had to resort back to them.” –Victim 5

More generally, three of four victims interviewed that supported the idea of OMCP were unhappy with the outcome of their experience with the court system. The same three victims expressed frustration at the lack of input they were able to give to the Crown Attorney, and each stated that they had no say in the court outcome. Victim 1 was not able to give her victim impact statement in court before the Crown obtained a plea for a conditional sentence from her partner. Not only did she disagree with the plea, she felt her partner should have been charged with attempted murder instead of simply assault, because he had choked her. Victim 2 was not consulted or given the opportunity to give any input, and was simply told by the Crown that “that’s the way it was”. Victim 4 was extremely disappointed that her partner was acquitted despite her full cooperation and documentation of her injuries (see Box 6). Victim 5 was the only victim who described a positive experience with the court system, while Victim 3 (who did not wish to have charges against her partner) did not attend any court proceedings and did not cooperate with the investigation at all.

Box 6

“It was pointless to charge him in the first place if he was just going to get a slap on the wrist anyways... It would have been a lot better if I hadn't called the police that night, and I would never call again.” –Victim 4

Victims and Community Services

When asked about community services made available to them as a result of police involvement, victims mentioned only a few services that they had used or

were aware of. While all victims had been referred to PLCPS Victim Services, only one of the victims interviewed chose to speak to Victim Services. The Victim/Witness Assistance Program (VWAP) was identified by two victims as an important resource. CAS was described as a positive resource for two of the four victims that had children. Two victims identified that they had sought out private counseling on their own or through consultation with their lawyer.

Impact of OMCP on Victims and Their Families

All victims interviewed reported that police intervention and OMCP had created significant disruptions in their lives. For some this amounted to short-term separation and, financial and emotional stress. For others, it involved dislocation and severe financial hardship. Only Victim 3 (the one who did not want charges and did not have children) reunited with her partner after the termination of the court process. The four other victims (all of whom had young children) were forced to relocate. Victim 2 had to find a new job; Victim 5 became reliant on other family members; and Victims 1 and 4 maintained their prior employment, with more difficulty as new single parent.

The victims who agreed to be interviewed were all very brave and resilient women to have spoken to the evaluators and to have survived the violent incidents that they were subjected to. It is evident however, that those victims who were ready to separate from their partner were the ones who supported charges against their partner. Each victim that supported the charges against their partner was able to make the decision to separate from the offender. Victim 2 was already in the process of separating from her spouse at the time of police intervention. Victims 1 and 4 called police immediately after the first instance of violence, when they realized that their safety was in jeopardy and they would not put up with the abuse. Victim 5 went to the PLCPS station and sought out police intervention herself. Victim 3 on the other hand, despite admitting being pushed around, having her hair pulled, and being called names, did not wish to be separated from her partner, and thus did not support Mandatory Charge.

Community Service Agency Interviews

All community service agencies (CSAs) interviewed believed that the introduction of OMCP was an important and necessary step in dealing with domestic violence. The CSAs acknowledged the benefit that OMCP has brought to victims through the removal of responsibility, and thus the burden of charging, from the victim, and instead placing it with the community and criminal justice system. None of the CSAs interviewed suggested that the Mandatory Charge policy itself should be completely removed, however, all CSAs agreed upon the need for OMCP to be looked at and re-evaluated according to whether it is serving its original purpose (i.e. the protection of victims of intimate-domestic violence). In order to go into more depth and reveal the opinions and voices of the CSAs, they have been numbered throughout this report as CSA 1 through 7, to ensure confidentiality.

Perceived Unintended Consequences

All seven of the CSAs interviewed identified the problem of women being arrested in particular situations and dual charges as unintended consequences of the policy. Four of these agencies (CSA 1, CSA 2, CSA 3, CSA 7) were keen to point out that the OMCP de-contextualizes women's use of force, thereby undermining its primary objective derived from the feminist movement of the 70s and 80s, to "protect women and children". CSA 1, CSA 3, and CSA 5 explained that the victim/offender dichotomy can prove to be problematic in situations where a woman is both a victim and perpetrator of intimate-domestic violence. These service agencies emphasized that once a person is charged under OMCP, all "victim" services are no longer available to that person. This can result in women being re-victimized through the criminal justice system, more vulnerable to threats and manipulation from an abuser, and thus creating an aversion to police intervention due to fear of retribution. For example, when someone is charged, they may lose access to their children, experience loss of employment, and have to go through expensive court hearings/bail, perpetuating a fear of police involvement.

OMCP as a Weapon of Violence

Through multiple examples, the four CSAs felt that although there have been "primary/dominant aggressor" guidelines implemented that are intended to

contextualize intimate-partner domestic violence, they were unsure whether or not the guidelines are being used, and whether or not the guidelines are an adequate solution to the issue. Two agencies (CSA 1, CSA 7) went further, asserting that OMCP is being used in some cases as another “weapon of violence” by abusers who know the system, and that abusers will call police to have the victim charged (see Box 7).

Box 7

“...almost every day we get a call from someone whose boyfriend/husband is threatening to call the police and have her charged. Because guys now know how it works. So now it’s a weapon. It’s a further domestic violence weapon. And then what happens is she slaps him across the face, she gets arrested, she’s crazy-angry, maybe fighting the police, so she’s kept in custody...” -CSA 7

CSA Perceptions of Police

Although several organizations voiced concerns around OMCP, specifically dual charging, all CSAs acknowledged the pressure and immense expectations that have now been placed onto the police to deal with the complex dynamics of intimate-partner domestic violence. These CSAs felt that police were not given enough resources and time to adequately investigate domestic violence occurrences and thus could not always correctly identify the primary/dominant aggressor. CSAs acknowledged the importance of police response to intimate-partner domestic violence, as police are usually the first “public contact” in a domestic violence situation. However as mentioned earlier, interviews with CSAs highlighted their understanding that:

“From a police perspective, their perspective is to get in there and get their job done and to protect the public, and if somebody’s broken the law, they have to charge them. If we are to make real evaluations at the time of arrest, now we’re asking police officers to be social workers.” -CSA7

Gender and OMCP

In order to address the overwhelming concern of “unintended consequences”, such as women being charged under OMCP, all CSAs were asked, “Do you think OMCP should be gender specific”? It was evident through all responses from the CSAs that they all believe in the application of law to be gender-neutral, for it is only logically fair in protecting all victims of intimate-domestic violence. Therefore no one disagreed that OMCP is, and should be, gender-neutral in its policy, however there were concerns about the *application* of OMCP as gender-

neutral, questioning whether or not “mandatory” is the solution to dealing with intimate-domestic violence at the time of the incident.

(Dis)Empowerment of Victims

Three agencies (CSA 1, CSA 6, CSA 7) stated a concern that Mandatory Charging bypasses the victim’s decision-making autonomy, and that it can be a very disempowering experience. This is particularly the case for victims who are looking to stay in their relationship, as the OMCP neglects their choice to want to do so. Furthermore, as CSA 1 pointed out, since most services ask victims to separate themselves from their abusive partners and families in one swift motion, there is a lack of understanding of what this high expectation can mean to a victim, especially if they were not looking for a solution of separation to begin with. This is a process that involves separating emotionally, physically, financially, sexually, and psychologically. If a victim is still attached in at least one of these ways, it can be very difficult for them to see police intervention and Mandatory Charging as a good thing, even if they have called police themselves. Therefore two CSAs voiced a particular need for community services that cater to victims who may want to stay in their relationship. Such services may include couples counseling, anger management, and safety planning.

Victims’ Resources and Their Need for CSAs

A victim’s ‘choice’ in seeking community services is something that was acknowledged by three CSAs. Victims with fewer resources (particularly financial and family resources) are more likely to have to seek community service assistance, whereas those with resources are able to keep intimate-domestic violence more private (i.e. instead of going to a shelter, they may go to a hotel).

OMCP and Children

The issue of ‘choice’ also came up repeatedly with CSAs with respect to the children who experience the repercussions of OMCP. Their wants and needs are often not considered, nor incorporated into the policy. It was explained through the opinions of various CSAs that children are at times being “left out” of OMCP:

“...entire family systems end up going through a transition that end [sic] up making it difficult for children, so certainly I think for children, it might be difficult because

their ability to understand differs from an adult's ability. In many cases children are still feeling connected to their parents or the parent that has been charged, so that can be a very difficult situation for a family to go through, but then again ending the violence for the victim and for any children, is a plus, and has to happen." –CSA 6

It is evident through the above quotation that the ultimate concern of protecting children is a positive and necessary idea implemented through OMCP, however the obligation to report any "abusive" behaviour at the professional level that may be happening in a home with children who co-habitat there, can at times be threatening to a parent who is the victim of domestic violence. Four CSAs voiced a concern around OMCP and its implications for silencing victims who attempt to "keep" their children, or who fear losing them through the criminal justice system. Particularly in cases where victims and offenders do not want the charge to be laid, further concern was voiced around the break-up of families, and the effects that the forced separation has had on children.

Managing the Offender

Many CSAs talked about "protecting the victim, while managing the offender". Two CSAs in particular explained the reality that if an offender does get charged as guilty under OMCP, very few are incarcerated for very long, if at all. Therefore jail is not the only answer to dealing with intimate-domestic violence of the offender.⁵ In addition, if CSAs are only looking at services for the victim, and neglecting services for the accused/charged, then the root problem of intimate-partner domestic violence will never be fully dealt with, leaving the perpetrator of violence within our communities and more vulnerable to engaging in another relationship that may involve intimate-partner domestic abuse. This reality also has the potential to create a situation where the perpetrator of intimate-partner domestic abuse is now familiar with OMCP and how it functions. This gives them the power to potentially use OMCP as a weapon in a future relationship, perpetuating the cycle of violence within our communities.

⁵ CSA 5

Information Sharing

Five out of six CSAs voiced a need for there to be more cooperation and information sharing amongst all CSAs in order to address the complex dynamics of intimate-partner domestic violence, deal with high-risk perpetrators of violence, and adequately serve victims of domestic violence. For example, information sharing between health care professionals and police in the first 24 hours after a domestic violence incident, could lead to better documentation of physical evidence of assault. By ensuring that the victim sees a health care professional, this would take care of any health concerns that victims or police may not have had the expertise to be able to identify. Such actions are thought to make it easier for victims of intimate-domestic violence to navigate through the criminal justice system with more accessible and coordinated support services, thereby resulting in safer environments for victims, more effective management of perpetrators, and ultimately safer communities. It was acknowledged that it is hard to share information between CSAs due to the necessity of respecting victims' rights to confidentiality. This led to the conclusion by several CSAs that there is a need for OMCP to be more responsive to victims' voices and needs, as they are the experts on their own lives. There were two statements in particular (see Box 8) that summarized the need for the inclusivity of victim's voices to be integrated at the decision-making level.

Box 8

"I think the criminal justice system needs to listen more... legislation needs to be addressed to victim's needs." -CSA 2

"...I think as professionals, we need to be obligated to try to strategize on what we could be doing better, and I think part of that strategy is that we need to be inclusive. Victims themselves, victims have to be included in the process, to help us, the professionals understand what is in their best interest." -CSA 6

The difference in these two statements lies in accountability. The first statement acknowledges that the criminal justice system, specifically the OMCP process, has to listen and include victim/survivor opinions and voices in order to ensure that their needs are met. The second statement seeks to bring accountability to the community services themselves, identifying them as being part of the problem/issue. It is evident through talking to seven prominent CSAs in

Peterborough that there are pros and cons to OMCP, and that in order to properly address the complex dynamics of intimate-domestic violence within the home, it must be acknowledged that OMCP is affecting the community.

Was It Worth It?

The CSAs involved with the criminal-justice system pointed out that victims often felt that the effort required of them to separate from their partner, navigate the court system, begin a healing process, and all of the attendant hardships were often not worth it for the outcome that they would receive from court. CSA 6's description in Box 9 is the most telling of these accounts.

Box 9

“And then, quite often you hear victims talk about how dissatisfied they are with the outcome, with the process, if it's just probation, they end up wondering 'why?': why the process had to be what it was, especially for those victims who are identifying not wanting to proceed with criminal charges, so they look at that entire process, and they get to the end, and quite often their question is 'why did I go through this?' 'If this is the outcome, why couldn't that have happened just at the beginning, why did we have to go through this entire process to get where we are now, when that could have happened at the beginning?'” -CSA 6

Observational Findings

Police Observation

Participant observation of PLCPS officers undertaking calls for service demonstrated the challenging work environment in which they must work. For the duration of a 12-hour night shift, officers went from call to call virtually all night, with a slackening of pace only towards 0430 in the morning. The most striking observation was the number of complainants and other parties who were quite clearly lying to PLCPS officers in an attempt to influence their behaviour or to save face. Seven of the approximately fourteen main parties spoken to (though most were not involved in domestic occurrences) during the 12-hour shift verifiably lied to police. This attempted manipulation and deception poses a significant challenge to police officers' ability conduct an investigation, as was evidenced in the single domestic occurrence that one of the evaluators observed during the shift.

Court Observation

Observation of the court process at the Ontario Court of Justice in Peterborough illustrated the confusing, fast-paced environment that victims must attempt to navigate in order to testify and seek the outcome they desire. As you walk into the building you are confronted with a crowded waiting area with police officers, court officials and lawyers crisscrossing the hallway at a frenzied pace. At the bail court or the trial courtroom, the constant turnover of cases and lawyers makes it highly unpredictable to determine when the case you are interested in will come before the Justice. The language used and references to sections of the Criminal Code of Canada can easily make it difficult to understand what is going on in the courtroom. The lawyers move from courtroom to courtroom so quickly that they rarely stop for more than ten seconds to consult with clients or witnesses.

The overall impression of the experience was one of overwhelming alienation, and stress. One can only imagine how these feelings would be compounded by the stress and anxiety victims are already experiencing as a result of police intervention, Mandatory Charge, and forced separation from their partner and its accompanying challenges, regardless of whether the victim wanted the partner charged or not.

Community Service Observation

The evaluators were also invited to attend the Peterborough Domestic Abuse Network (PDAN) meeting of March 23, 2010, which was attended by a number of local CSAs and the Crown Attorney. Observation at this meeting revealed two findings. First, PDAN lacked input from victims about how best to serve victims of domestic violence in Peterborough. A discussion arose about the placement of advertising in which it was clear that the professionals sitting around the table could have benefitted from the insights of victims of domestic violence as to the places that they frequent. It should be noted that PDAN was aware of this shortcoming and was attempting to organize a 'Survivor Advisory Group' to address the issue.

The second finding concerned the lack of coordination between community service agencies. At the meeting a question was posed about shelter services for male victims, and none of the community service representatives could give a

definitive answer. This lack of knowledge demonstrated that, at least in some regards, CSAs in Peterborough may not be fully aware of all services offered by other agencies, and thus are not able to refer their clients accordingly.

Quantitative Analysis

The data presented in the figures below are compiled from the 124 arrest reports for intimate-partner domestic occurrences in the PLCPS 'Niche' database in 2009 under the heading of 'Domestic Dispute'. This represents a sample of approximately 45% of the intimate-partner domestic arrests (277) in Peterborough for 2009.

Gender and Charges Laid in Domestic Occurrences

Figure 1

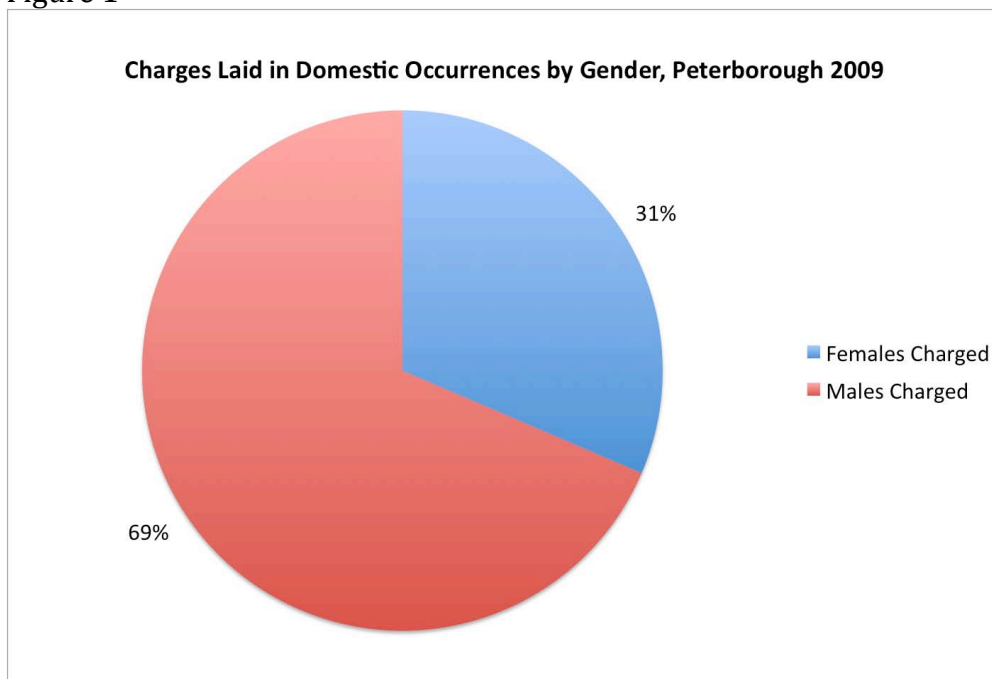


Figure 1 corroborates the common perception among all police and CSA respondents that females are the majority of victims of intimate-partner domestic abuse in Peterborough⁶. It also shows that there is a sizeable minority (31%) of women being charged. Despite the large number of CSAs that talked about concern

⁶ There was only one occurrence of same-sex (female-female) domestic violence listed under the category of 'Domestic Dispute' in the PLCPS Niche database for Peterborough in 2009.

for dual charges, there were only eight instances (6%) of dual charges in the 124 arrest reports analyzed.

Female Victims' Support for Charges Against Their Partners

Figure 2

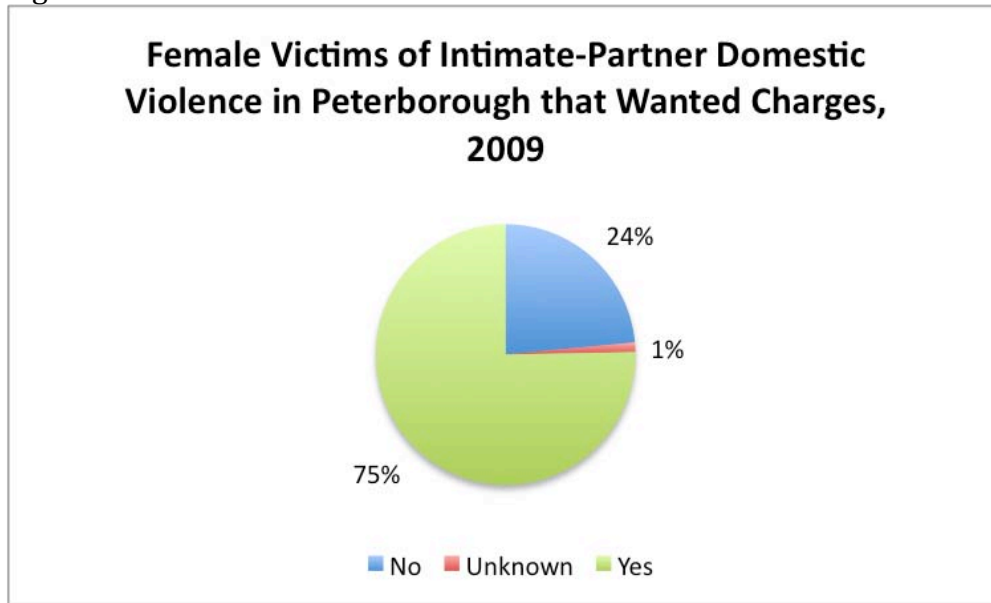


Figure 2 tempers to a degree the perception among PLCPS officers interviewed that often female victims are uncooperative and unsupportive of charges being laid. It should be noted that this analysis was based on the interpretation of the female victims' desire for charges at *the end* of the police investigation when OMCP had been explained to victims. Thus, this finding seems to demonstrate that a significant majority of female victims (75%) of domestic violence in Peterborough in 2009 were pleased with the outcome of the initial police investigation that lead to charges being laid against their partners. Among male victims, support was more ambivalent, with 54% in favour of charges against their partner and 41% against (for the other 5% it was not possible to determine). Overall, 69% of victims supported charges, while 29% opposed them.

Victims' Desire for Charges by Who Called the Police

Figure 3

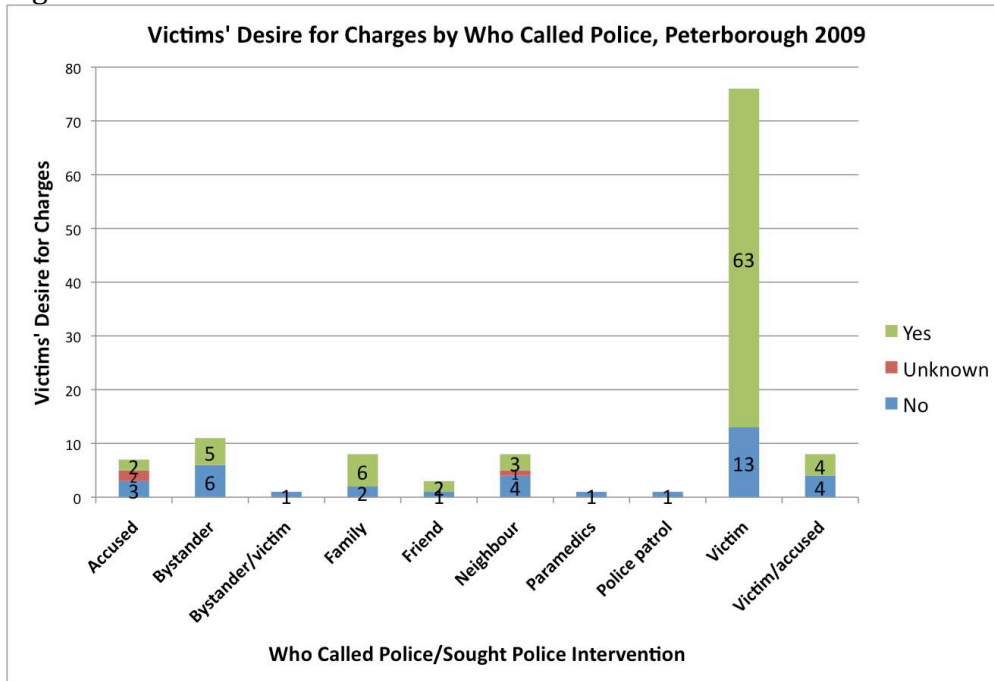


Figure 3 shows that victims generally call police themselves, whether they desire charges to be laid against their partner or not. Indeed, victims tend to support charges in victim-reported instances of domestic violence. There is no strong correlation between someone other than the victim calling police and the victim's desire for charges. The only possible exception to this could be instances when a family member calls, where charges were supported by a ratio 3:1 in favour of charges. However, the small number of samples makes reliable inferences from this data difficult.

Two Conflicting Trends

Figure 4

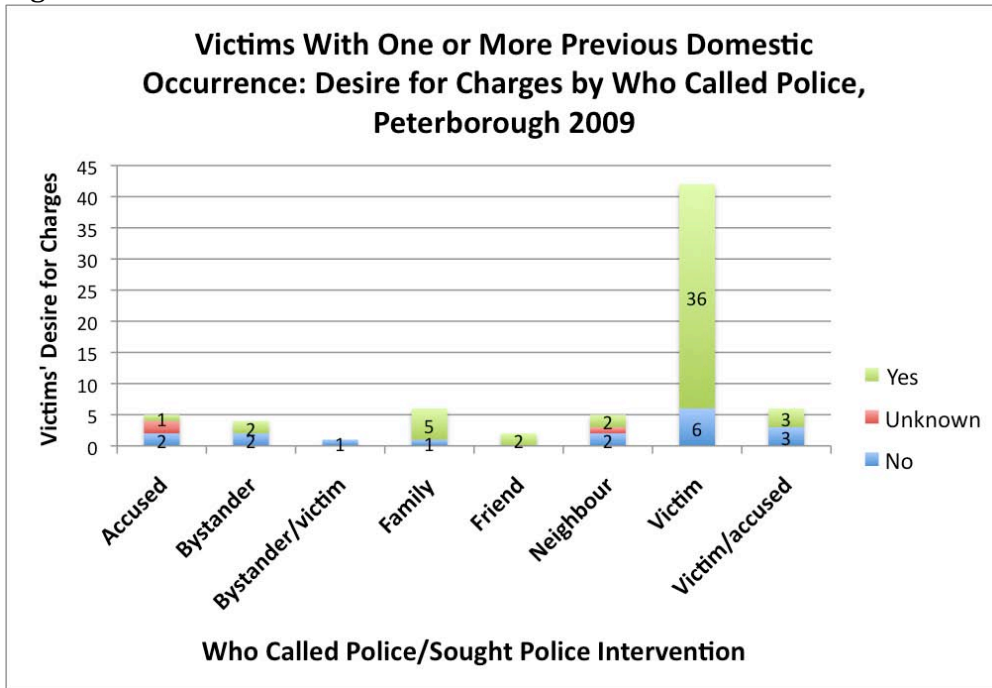
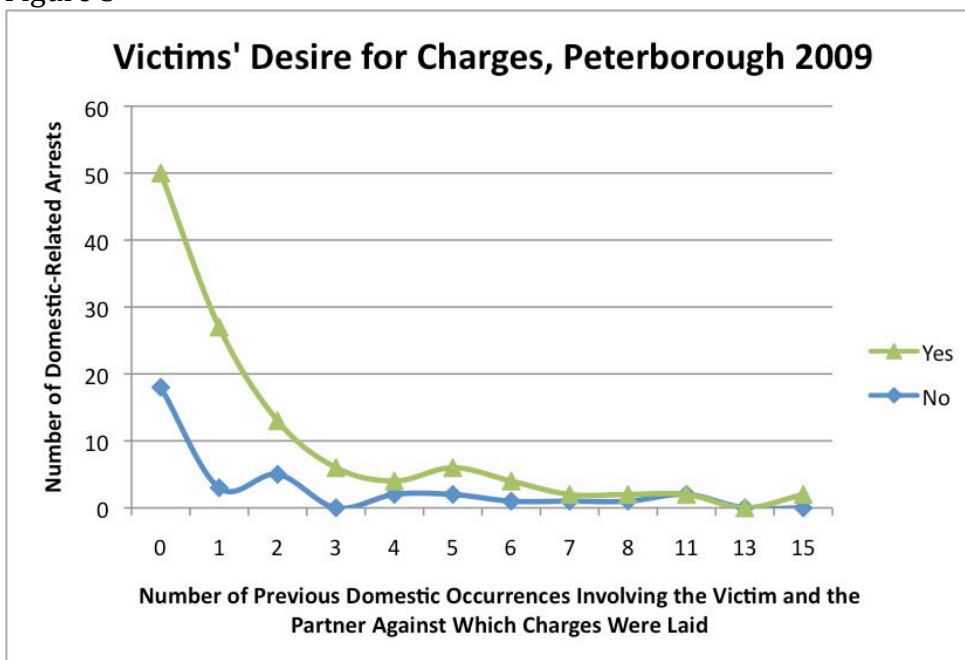
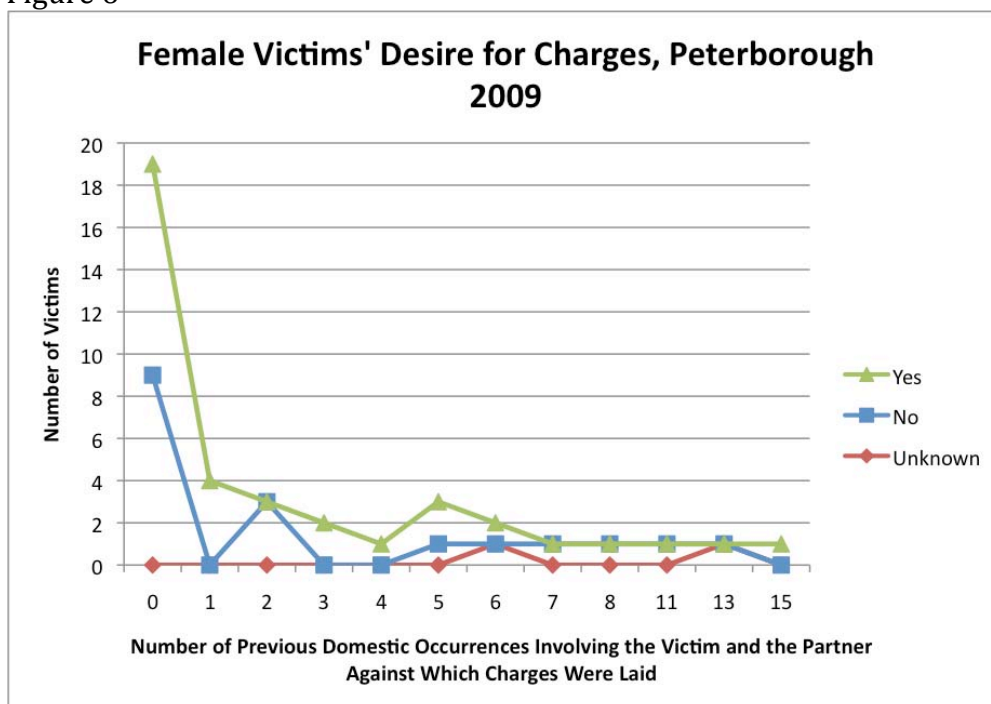


Figure 5



Figures 2, 3 and 4 seem to offer a picture of strong victim support for OMCP, with a minority opposed to the policy. However, interpreting the data in Figures 5 and 6 is more challenging and ambiguous. Both graphs illustrate that the PLCPS has few interactions with intimate-partner couples who have been the subject of previous domestic dispute investigations, whether those investigations have led to charges or not. In both Figure 5 and 6 there is a significant decline in the number of victims both wanting and not wanting charges after they have had more than one interaction with police involving the partner against which charges were laid. Interestingly, the trend is remarkably similar between an aggregate measure of victims and just female victims, and also between those wanting and not wanting charges in both categories of victims.

Figure 6



The data in Figures 5 and 6 can be interpreted in two ways. First, following from the positive portrayal of OMCP that appears to emerge from Figures 2, 3 and 4, it is possible that early police involvement in domestic disputes is leading to appropriate charges being laid, and thus a reduction in the number of chronically violent and abusive relationships in Peterborough. In other words, OMCP is working.

A second interpretation of the trend in Figures 5 and 6 could be that victims who experience police intervention (whether it leads to charges or not) are discouraged from involving police again because they do not have a positive experience or do not get the outcome they sought from police.

Resolving the Ambiguity

Figure 7

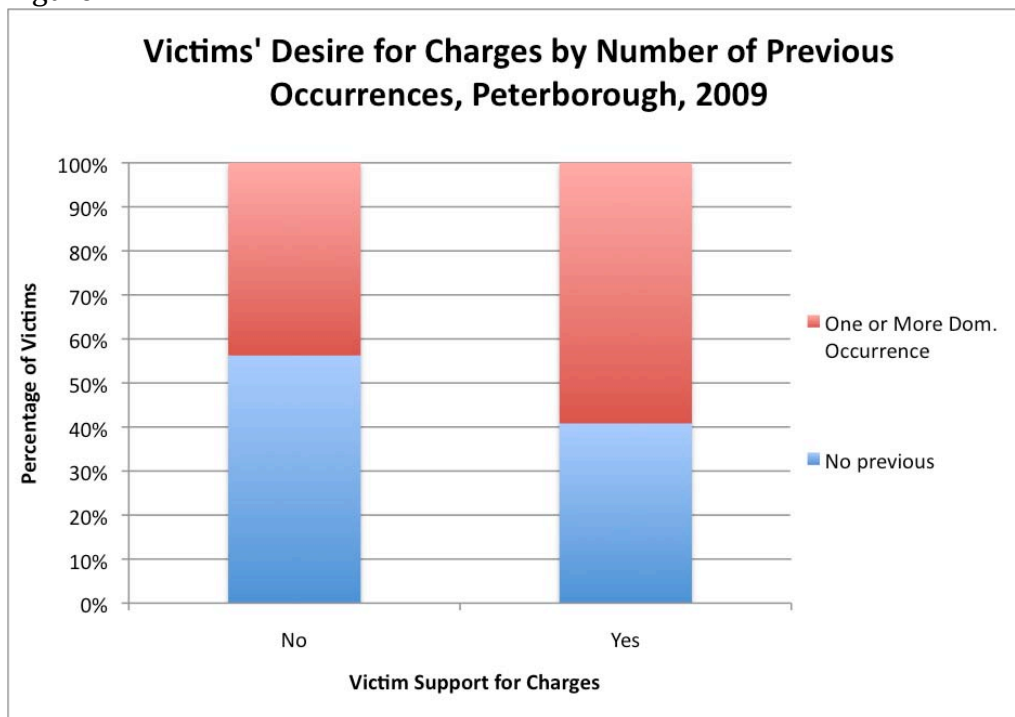


Figure 7 potentially offers an answer to the ambiguity of Figures 5 and 6. Figure 7 shows that almost 60% of victims who were in favour of charges had had at least one prior police intervention between them and the partner against which charges were laid. Conversely, a majority (56%) of the victims who opposed the charges against their partner had no previous interventions by police for domestic occurrences. Victim and CSA interviews revealed that the state of mind and readiness of victims to leave their abusive partners plays a major role in determining victims' support for OMCP at the time of police investigation. Thus, it is likely that both competing interpretations of Figures 5 and 6 are correct, and occurring simultaneously.

Among those victims who have had previous police involvement *that has not resulted in charges*, the violence/abuse in their relationships may have escalated to a

point where they are ready to leave, or at least they acknowledge that their safety is in jeopardy. This explanation can account for the potentially contradictory findings of Figure 4 (victims with prior police involvement still calling and wanting charges) and Figures 5 and 6 (the small amount of PLCPS involvement with victims who have had previous police involvement in domestic occurrences). In other words, victims who acknowledge that they need to leave their abusive partner only after one or more domestic occurrence involving police are still likely to call police and support charges so long as they have not yet been through the entire police and court process that a Mandatory Charge involves. This group likely constitutes the majority of the upper righthand red rectangle in Figure 7.

In contrast, the upper lefthand red rectangle in Figure 7 is likely composed of mostly those victims who are in chronically violent abusive relationships but do not have the supports to leave or have so internalized the abuse that they do not realize they are being abused. Also, these victims may have been through the Mandatory Charge process with their current or previous partner and not received the desired outcome, and thus have no desire to be involved in the process of OMCP again. The composition of the blue rectangles in Figure 7 are likely too heterogeneous to describe a predominant profile of victim situations that support or do not support charges against their partner. However, it is possible to speculate based on data gathered in interviews that for those victims who did not want charges and had no previous police involvement for domestic disputes, fear of the unknown played a significant role in their feelings regarding OMCP.

The Challenge of a Unidimensional Perspective

It is difficult to hypothesize about victims' feelings about OMCP based solely on their perceptions at the point of police investigation (as revealed by the arrest reports). The challenge results from a two-fold limitation of the data available to the evaluators. First, as mentioned above, it is not possible to discern from all PLCPS arrest reports whether the previous 'domestic occurrences' between intimate partners involved charges or not. This critical piece of information would allow for an analysis of whether it is indeed those victims who have had previous occurrences and are still in favour of charges simply because they have not gone through the whole Mandatory Charge process.

Secondly, the arrest reports offer only a unidimensional perspective on victims' support for OMCP. However, from victim interviews it was clear that even among those who came to support OMCP at the end of the court process, they did not always support charges at the time of police investigation. Thus, any interpretation of victims' feelings about the entire process of OMCP (from police response to the conclusion of court proceedings) that is based solely on arrest reports is an extrapolation informed by the qualitative data gathered from literature and interviews.

Aggregate Trends in Peterborough's Domestic Violence Statistics

Table 1: PLCPS Domestic Violence Statistics as Reported to the Ontario Ministry of Community Safety and Correctional Services, 2006-2009

Dates	Arrest or Warrant Issued	Occurrences Where no Offence Alleged	Total Occurrences	% Where Charge Laid
Jan - Mar 06	69	148	217	31.8%
Apr - Jun 06	82	232	314	26.1%
Jul - Sep 06	81	204	285	28.4%
Oct - Dec 06	78	152	230	33.9%
Total 2006	310	736	1046	29.6%
Jan - Mar 07	70	260	330	21.2%
Apr - Jun 07	81	196	277	29.2%
Jul - Sep 07	87	219	306	28.4%
Oct - Dec 07	62	174	236	26.3%
Total 2007	300	849	1149	26.1%
Jan - Mar 08	76	168	244	31.1%
Apr - Jun 08	84	233	317	26.5%
Jul - Sep 08	87	223	310	28.1%
Oct - Dec 08	64	231	295	21.7%
Total 2008	311	855	1166	26.7%
Jan - Mar 09	84	216	300	28.0%
Apr - Jun 09	76	301	377	20.2%
Jul - Sep 09	73	198	271	26.9%
Oct - Dec 09	44	242	286	15.4%
Total 2009	277	957	1234	22.4%
Total 2006-09	1198	3397	4595	26.1%

Table 1 was generated using the PLCPS's domestic violence quarterly statistics. This data is not a sample but represents the entirety of domestic violence occurrences in Peterborough for the years stated. Only data for 2006 to 2009 was

made available to the evaluators, thus a comparison of pre- and post-OMCP domestic violence statistics was not possible. There are only two findings of note from Table 1. First, the percentage of domestic occurrences that resulted in charges being laid never rises above 34% between 2006 and 2009. Thus, in the majority of domestic disputes that police responded to, no charges were laid. Of note, however, is the wording of the categories under which domestic occurrences must be classified. The title of the category 'Occurrences Where No Offence Alleged' and the absence of any other category but 'Arrest or Warrant Issued' implies that any occurrence where an offence is alleged must result in charges. Police interviews and the Ontario Policing Standards Manual, 2000 (paragraph 15)⁷ both confirm that an allegation of an offence does not constitute reasonable grounds for arrest.

Secondly, Table 1 shows a steady decline in the percentage of domestic occurrences where charges were laid by PLCPS officers. From a high of almost 30% in 2006, the percentage dropped by 7.2% over four years to 2009. The number of domestic occurrences has increased over the four-year period, while the number of charges laid was constant from 2006 to 2008, falling by roughly 10% in 2009. However, since there has been no policy changes over the period for which statistics are available, without a data set comprising more than four years, it is not possible to draw reliable conclusions from these findings about their meaning for the effectiveness of OMCP in Peterborough.

⁷ Ontario Ministry of the Solicitor General. (2000). *Ontario Policing Standards Manual*. Government of Ontario, LE-024.

Discussion of Findings

Effectiveness of OMCP

The qualitative and quantitative findings reveal a clear message from victims, police, and community service agencies: OMCP was a necessary intervention to attempt to reduce instances of intimate-partner domestic violence. All findings support the belief that OMCP has achieved the intended purpose of removing the burden of laying charges from the victim. The interviews with police and the analysis of the content of arrest reports also seem to indicate that OMCP has had the desired effect of elevating the seriousness with which domestic occurrences are treated by police officers. There is little doubt that these outcomes are the result of OMCP, and would not have come about had the policy not been implemented.

Aggregate Measures

An important measure of the effectiveness of OMCP would be to compare rates of intimate-partner domestic violence in the pre- and post-OMCP periods. However, this data for Peterborough was not available to the evaluators. None of the interview respondents from any category suggested that OMCP had reduced the incidence of intimate-partner domestic violence. Though Statistics Canada documents a decline in 'spousal assault' of 15% nationwide between 1998 and 2007¹, no inferences can be made about this trend in Peterborough due to a lack of availability of data.

Individual Standards

While an aggregate reduction in intimate-partner domestic violence would be a positive outcome of OMCP, even if it could be measured it would not give a complete picture of the effects of the policy. The findings from police interviews show that police see the removal of a partner, and at least a temporary halt to violence that OMCP provides, as the end of one problem and the beginning of many

¹ Statistics Canada. (2009). *Family Violence in Canada: A Statistical Profile*. Government of Canada.

more. As one officer put it: “We solve one problem and give them 18 more”. Thus, at the individual level there are no standard criteria that can determine the effectiveness of the policy. Most important are the perceptions of victims of domestic violence regarding the policy, as they are the ones that OMCP is supposed to protect. OMCP is an indiscriminate policy that is applied to countless types of victims, with different socio-economic, family, and emotional circumstances. Thus, the standards by which it can be judged a success will vary widely from victim to victim².

Figure 2 seems to offer a strong indication of support among female victims (who make up a significant majority of victims – see Figure 1) for police intervention and charges being laid against their partners. However, an important limitation to this finding is that it is not possible to discern from the PLCPS arrest reports whether a victim would have wanted charges against their partner in the absence of OMCP.

Measuring Victim Opinions Through Time

Interviews with victims revealed that the dimension of time plays a role in victims’ perceptions of OMCP. Three of the victims interviewed supported charges throughout their experience, while one victim initially opposed charges but then recognized that they were a positive intervention afterwards. The quantitative analysis, including Figure 2, was hindered by a lack of temporality: the only time at which victims’ support for charges could be gauged was at the time of police investigation, when emotions are running high. As police interviews described, this is a challenging and distressing period of time, where the victim may actually appear more confrontational and uncooperative, despite having called the police and wanting charges laid. Thus, it is difficult to determine how victims would feel about charges or Mandatory Charge a day or a week after the charges, or after the termination of court proceedings.

² Stake, R. (2004). Criterial and Interpretive Evaluation. In R. Stake, *Standards-Based and Responsive Evaluation* (pp. 1-23). Sage.

In the absence of quantitative data regarding victims' feelings about charges and OMCP in a second or third time period, the finding from Figure 2 that indicates strong support among victims (75%) for charges against their partner at the time of police investigation must be qualified by qualitative findings in order to gain further insight into victims' support for OMCP. Qualitative findings seem to indicate that for those who want charges against their partner, OMCP is a positive exercise. Interviews with victims and CSAs reveal that those who want charges are victims who are experiencing escalating levels of violence and acknowledge that they (and their children) are at risk. For victims in this situation, police, victim and CSA interviews all say that OMCP is helpful because it allows the victim to shift the blame for the charges onto police, and gives the victim one less source of stress in what is already a very stressful process of separating from their partner.

Unintended Consequences

For those victims who oppose charges at the time of police intervention and/or who wish to remain with their partner, OMCP may have unintended consequences that may actually lead to more domestic violence going unreported and to less disclosure to police when they are involved. The findings reveal that there are victims for whom Mandatory Charge may not be the most appropriate intervention. There seem to be two primary instances where Mandatory Charge against the victim's wishes is not the most appropriate police response.

Unnecessary Criminalization

The first instance is when the behaviour for which the charge was laid, while it may fit the strict definition of a crime under the Criminal Code of Canada, does not warrant the criminalization of the offender. This is the type of case for which police argued that they should retain discretion, and be able to refer both the victim and the accused to an alternative mandatory intervention, such as counselling or overnight custody. PLCPS officers recounted personal experiences of feeling frustrated by having to lay charges when they did not feel that they were the appropriate course of action for the couple. As PLCPS Officer 4 admitted in Box 3: "...I've been to calls and we've walked out of, where I walk out of the house and go

get into my car and say to my partner, 'they're never going to call us again'.". The concern among officers interviewed is that when victims are dragged into the criminal-justice system when they feel the charges are not warranted against their partner, they will not call police again when they get back together with their partner and another violent incident occurs. In such instances, criminalizing an incident that could have been solved more appropriately by other means may actually further jeopardize victim safety instead of improving it.

Detour Through the Criminal-Justice system: Victims Who Do Not Want Charges

The second instance is when charges are definitely warranted but the victim still does not wish charges to be laid against their partner. Police, victim and CSA interviews identified a number of circumstances in which victims may not want charges laid despite having just been assaulted by their partner. Some victims are simply looking for support to separate from their partner, not knowing where else to reach out for community services and in doing so disclose incidents of violence to police. A common case in the analysis of the 2009 arrest reports was victims who were not looking to separate from their partner and only wanted the offender/partner out of the house for the night. Some victims know they should leave the abusive relationship but are scared to do so (even with police involvement) or simply do not have the resources to separate from their partner and sustain themselves and possibly their children on their own. Other victims have simply internalized the abuse so much that they believe their abuser when he/she tells the victim it is their own fault³. Police, victim and CSA interviews all suggested that many of those who have been through the OMCP process before often do not want to do so again because of the disempowering nature of the court process in particular.

The Court Process: The Danger of Alienation and Incommensurate Outcomes

Whether victims wanted the charges or not, qualitative findings from police, some CSAs and some victims seem to indicate that the stresses, frustrations and

³ This type of domestic abuse is exemplified in the 'Power Wheel' that is widely used and accepted by police services and CSAs all over North America.

challenges of the court process are often not worth the outcome of the OMCP process. Indeed, only one victim interviewed got the outcome she sought from the court process. There are a number of examples from police and victim transcripts that illustrate that this alienation and disappointment with the court process poses the risk of driving domestic violence underground, because those who have been through the court process know what it is like, and may not want to go through it again. As Officer 5 stated: “I can guarantee you that there’s women that don’t call the police because of this policy.” CSA 6’s description in Box 9 is particularly compelling in this regard (see page 33).

Thus, police officers and victims interviewed both believed that it is likely that victims who have been through the process and were disappointed with the outcome will likely not call the police again unless their life is in jeopardy. In the words of PLCPS Officer 4: “You know, so if we don’t rein it in, if we don’t find a better way to handle it, then we are going to end up back where we were, on the other end, where people weren’t reporting.”

Quantitative Support for Victim Alienation and Non-Reporting

There are two important data sets necessary to solidify the qualitative findings about concerns of alienation and disappointment with the court process and the consequences thereof. Namely, data regarding victims’ perceptions of OMCP after having gone through the court process, and quantitative data where a correlation between victims’ desire for charges and previous experience with the OMCP process can be established. However, as previously mentioned, this data is not captured or not possible to discern.

The only proximate data available is what is captured in Figures 5 and 6, which shows that PLCPS do not interact with many couples who have had more than one previous domestic occurrence. As discussed in the previous section, this trend was clear among all victims, irrespective of gender or whether they supported charges or not. The analysis in the previous section concluded that this trend is likely representative of two simultaneous phenomenon, both a reduction in the number of chronically violent abusive relationships, *and* a reluctance on the part of

victims who have been through the OMCP process before to involve police again if they did not get the outcome they desired in court in the first instance (even if they originally supported charges).

Community Services and Victims Involved in OMCP

The findings from police and victim interviews also revealed a lack of knowledge and use of community services for victims of domestic violence. Despite the listing in the PDAN Domestic Abuse Resource Guide of over 45 community service agencies available to help victims of domestic violence in Peterborough and the fact that Victim Services mails a letter describing the services available to all victims of intimate-partner domestic violence, all victims interviewed combined could only identify basic services such as PLCPS Victim Services, VWAP, and CAS. As mentioned in the previous section, only one of the five victims interviewed actually spoke with Victim Services, which is the point of referral to all other services for victims. However, the findings revealed that the only referral many PLCPS officers make is to Victim Services. While PLCPS Victim Services (which has a staff of one special constable and a few part-time volunteers) follows up by phone or mail with all victims of crime, PLCPS officers are not always explicitly mentioning services available to victims of intimate-partner domestic violence at the time of intervention. Out of the 124 arrest reports for 2009 analyzed, 67 victims (54%) were referred only to Victim Services, and the next most common referral was 'none' (14%).

As one experienced PLCPS officer explained, victims who have to seek out services are likely not going to be proactive about seeking out services they are not aware of, nor should they have to be. Also, as Victim Services and two victims identified, victims are often reluctant to contact Victim Services because of the perception that it is linked with the police. Thus, victims often do not reach out to the one source that can refer a victim to all the services they could need to successfully separate from an abusive partner, especially if victims are not in favour of charges against their partner.

Two CSAs pointed out that victims need time away from their partner after a violent incident even if they do not support charges. This separation period can allow the victim to realize the seriousness of the situation that they are in, and they may choose not to return to the relationship. Yet, if victims are not aware of and not using the services that are there to support them, they will likely remain dependent on their partner and not want or not be able to leave. Similarly, several police and CSA interviews mentioned that even if victims do have a strong motivation to leave an abusive relationship, but do not have their own emotional and/or financial resources and support, it may be challenging to leave without the support of community services.

Thus, there appears to be a twofold issue regarding victims and community services. First, victims are often forced to be proactive in seeking out community services. However, it appears that even when they are made aware of the community services available to them, they are often not choosing to use them. It is likely that those who have the resources are choosing to seek private counseling and housing arrangements, but even many of those who do not have the luxury of that choice do not seem to be using community services.

Lack of Victim Input Into Community Services

CSAs in Peterborough were mostly their own biggest critics when it came to acknowledging that they lack victim input into how best to offer services to victims. The three CSAs interviewed who deal with victims in the immediate aftermath of violent incidents all emphasized the need to better include victim input into their service provision. Similarly, at the PDAN meeting that the evaluators attended, there was discussion of forming a provincially mandated 'Survivor Advisory Group' to inform and guide the actions of PDAN.

Police interviews also revealed that the lack of responsive services for victims was a major contributor to victims not getting the outcome they desired from OMCP. One PLCPS officer and one CSA representative gave the example that if a victim needs money for food and rent because they are no longer supported by their abusive former partner's income, then counseling and legal advice are not

going to be the supports that that victim really needs. However, this type of financial support is not available to victims of intimate-partner domestic violence.

Without further research it is mere speculation to suggest that there is a causal link between victims' lack of use of services and victims' lack of input into the provision of those services. However, it seems logical enough to conclude that if community service agencies were offering exactly the services that victims were seeking, more victims would use those services. Similarly, if victims were giving input about how they would have liked to be contacted about services available to them, the CSAs would likely be able to reach more victims.

Coordination and Community Services

CSAs also unanimously acknowledged the need for better coordination and information sharing among themselves and with the Crown and police. While there is some duplication of services that occurs among the agencies listed in the PDAN resource guide, most organizations have their own expertise that they can offer to victims (and also offenders) of domestic violence. PLCPS Victim Services may not always be the best CSA for victims to speak to because of the requirement that Victim Services pass along any disclosure of violence to the PLCPS for investigation. It could be argued that avoiding Victim Services for this reason sidesteps the whole purpose of OMCP, but when it is clear that many victims do not support charges against their partner and are looking to resolve their domestic problems by other means than criminalization and separation, there may be more appropriate options for services and referrals than Victim Services.

With so many specialized services, all touching on aspects of the problems faced by victims and their families, it is clear that coordination among CSAs would be a positive step in increasing the community response to intimate-partner domestic violence. Information sharing in particular can be important for documenting abuse, gathering evidence, and ensuring victim safety. To some degree this occurs with the High Risk Action Review Team (HART), however, for important reasons only investigative, enforcement and prosecution agencies are included in this team. At the other end of the spectrum, PDAN brings many CSAs together, but it

has no mandate to coordinate services or share information for individual clients. Three CSAs identified client confidentiality as a challenge to better information sharing among CSAs.

Despite calls by all CSAs interviewed for better coordination and information sharing, it was not clear what 'better coordination' would look like, or through what mechanisms it could be facilitated. It is likely that other impediments exist, both within and among CSAs, for better coordination that the evaluation did not bring to light.

Police Training and Victim Input

Continued training for police on how best to respond to domestic occurrences is an important aspect of in-service training, if only to avoid the complacency that one PLCPS officer admitted can set in after so many domestic occurrences. Several CSAs and indeed several PLCPS officers suggested that police officers needed more training to better understand the dynamics of intimate-partner domestic violence occurrences, and to apply the primary/dominant aggressor policy. It was suggested by CSAs that training on how to deal with domestic occurrences could be better informed if community agencies and victims themselves were able to give input to officers about how to improve their responses to domestic occurrences.

Though it seems logical that sharing victims' perspectives on police intervention could assist officers to better respond to domestic occurrences in some way, it is unclear how such input would be delivered, or what areas of police response it would be attempting to improve. Since police actions are governed by strict procedures and laws, it is likely that victim input would be limited to helping officers understand the best disposition with which to approach certain types of victims in order to best solicit their cooperation. However, as police interviews revealed, each call that they receive is different, and it is hard to generalize.

Summary

Among victims and CSAs there is most often a recognition of the need for a mandatory policy intervention like OMCP to address domestic violence, but it is the

failure to provide a comprehensive support to victims of domestic violence in the *implementation* of the policy that leads to *outcomes* that can often be unfavourable to victims. It is for this reason that police want discretion returned to them: so that minor domestic occurrences where charges *could* be laid can be diverted from the serious consequences and stresses that are involved in going through the OMCP process. The disconcerting trend reported by all stakeholders is that the disappointment with outcomes in the criminal-justice system, and a lack of appropriate community support services, could lead to victims choosing not to involve police in any way despite high levels of domestic violence in their relationships.

Costs and Benefits

This compilation of costs and benefits of Ontario's Mandatory Charge Policy contains only a non-monetary analysis, as an examination of the monetary costs and benefits was beyond the scope of the evaluation and the capability of the evaluators.

Costs

- Criminalizes minor and first-time instances of intimate-partner domestic violence that *in some cases* may be better solved by other interventions.
- Often imposes significant financial and emotional stress on families that are forced apart by OMCP.
- Forces victims who are not ready to separate from their abusive partners to attempt to do so in one swift motion.
- The lack of a commensurate response from community services and the court system poses the risk of alienating victims and causing them to avoid calling for police assistance in future instances of domestic violence.
- Imposes significant resource burdens, especially in terms of time, on the PLCPS to fulfill the supplementary investigative procedures required for domestic occurrences.
- Likely increases the volume of cases before the Ontario Court of Justice and the Crown Attorney

Benefits

- Provides a strong intervention to separate perpetrators of intimate-partner domestic violence from their victims. It removes violent offenders from homes and often protects the victim and children from exposure to physical abuse.
- Establishes a perception of zero-tolerance towards intimate-partner domestic violence for those who are aware of the policy.
- Offers a window of opportunity for victims who are ready and able to escape abusive partners: temporary separation from the offender occurs, and support services are offered.
- Ideally, immediate involvement with the criminal-justice system allows early intervention before violence escalates to serious trauma or worse. In other words, it prevents another May-Iles type case from occurring.
- Provides a clear procedure for police response to all domestic violence occurrences.
- Has evolved the attitude of PLCPS officers towards domestic violence and increased the seriousness with which they respond to domestic occurrences.

Conclusions and Recommendations & Options

Conclusions

The pendulum of domestic violence policy in Ontario has certainly swung to the opposite extreme compared to the lack of adequate response that was prevalent even in the 1980s. OMCP is a policy intervention that asserts that the community has a right to intervene in the lives of families where there is domestic violence. It is an exercise of power over offenders and victims, and is explicitly designed to remove the responsibility *but also* the power of victims. This exercise of police power can be good for some victims: those who are in high-risk situations or who are ready to leave their relationship and have the resources to do so. But it is seriously invasive for others, and the disempowerment continues throughout the OMCP process. The lack of adequate and relevant community support and positive court experiences further contributes to victims' sense of disempowerment and negative experiences with OMCP. *It sends feedback to victims that tells them that the empowerment they sought through calling the police is not there, and thus can seriously undermine their willingness to involve police in any future incidents.* The danger is thus that OMCP could lead to the very problem it was intended to solve: non-reporting and/or non-disclosure of intimate-partner domestic violence.

Recommendations & Options Regarding OMCP

Given the findings and conclusions of this evaluation, two options are offered for how to moderate the negative effects of OMCP and bring the 'pendulum' of domestic violence policy 'back to the middle'. Both options mix policy prescriptions at the municipal and provincial level.

Option 1: Continue With Mandatory Charging

This evaluation has established that there are clear benefits to a Mandatory Charge approach towards intimate-partner domestic violence. *However, if this blanket policy is to remain in effect, there must be some improvements to mitigate the impacts of the policy and to reduce its unintended consequences.*

- **Both the support services provided for victims and the court process that follows the police intervention need to become more responsive to victims' needs.**
- **Community service agencies need to solicit victim input about what services victims really need, when they need them, and how they should be delivered.** CSAs also need to respond to victim input about how best to advertise their services to vulnerable populations, so that victims who may be inclined to call police to seek information about services and unintentionally end up with charges against their partner can find out about services other than through police intervention.
- **The court aspect of OMCP should become more victim-oriented as well.** From bail court to the conclusion of sentencing, if OMCP is truly about protecting victims of intimate-partner domestic violence, there must be opportunities for victims to have a say in the outcomes of the court process. While this evaluation was not able to explore the specific impediments to a more victim-oriented court process, it is clear that there is a risk of alienation with the criminal-justice system that may lead to future non-reporting if victims continue to feel that they have not achieved the outcome they sought by choosing to involve police, or that if the sentence is so light that victims wonder why they had to go through the whole process when they opposed it from the start.

Option 2: Re-introduce Limited Police Discretion and a Mandatory Alternative to Charges

If it is determined that OMCP has served its purpose by altering the organizational culture of the police service enough that there is no doubt that all domestic occurrences will continue to be treated with the level of seriousness and attention to detail that currently exists, then *it may be preferable to give police back a limited amount of discretion to determine which domestic occurrences are worth criminalizing.*

- **Under such a scenario, when police officers determine that reasonable grounds for arrest exist, they would have the option to either arrest the accused or refer the victim and offender to a mandatory alternative.** This

limited amount of discretion would not allow officers to simply walk away and not treat the occurrence seriously. Rather, it would put trust back in the hands of officers to determine whether they felt the severity of the occurrence warranted criminalization without first trying an alternate problem-solving route.

- **A mandatory alternative could include taking the accused into custody overnight and then requiring them to attend counseling on their own and/or with the victim.** If the accused then failed to meet the requirements of the mandatory alternative by a certain date, then charges would be brought against them based on the evidence gathered by officers at the initial investigation. Such an approach would likely require additional police resources for following-up on participation in alternative programs, and would not decrease the reporting requirement of officers during investigations. This increase in police resources would be offset to a degree at the provincial level by a commensurate decrease in the burden on the court system due to a reduced volume of cases being referred to the Crown for prosecution. It is unclear however how this balance of resources would work out in practice in different municipalities or how the reallocation of resources from prosecution to follow-up could be executed.
- **Even with the suggested alternative mandatory intervention, the improvement in community services and creating a more victim-oriented court process are still relevant recommendations.** The need for victim input and coordination among community service agencies may even be higher when CSAs are expected to deliver and track whatever form the alternative mandatory intervention could take. The court process would also still need to become more focused on delivering outcomes that victims are happy with; otherwise the same risk of non-reporting arises.

Token vs. Substantive Victim Participation

Victim/survivor participation has recently become a focus of several ministries of the Ontario government surrounding intimate-partner domestic violence. The funding for PDAN's 'Survivor Advisory Group' comes from this initiative. *There is a danger, however, that imposing the need for victim input from*

above may lead to mere token participation of victims instead of victims having real substantive say in the 'what' and 'how' of community service provision.

- **Token participation of victims is at least as detrimental as no participation, as it involves the *use of victims to meet a policy requirement, instead of the participation with victims to affect change.*** If victims are asked to bravely step forward and share their stories and give input without CSAs having the intention or the ability to take what victims have to say seriously, then victims' trust will be violated, and likely further frustrate and alienate them from wanting to participate in the formal, professionalized responses to intimate-partner domestic violence.

Community Education Regarding OMCP

Education should be an important component of any policy response to address intimate-partner domestic violence.

- **Skills for resolving conflict in a non-violent manner should be incorporated in the elementary and secondary school curriculum.** Failing that, the police school liaison officer(s) could conduct presentations and workshops at schools to help children and teens learn from a young age about how to resolve problems and manage anger without hurting those they care about.

Education about Mandatory Charge as a policy is also important. Ontario's citizens should know that there is a zero-tolerance approach to intimate-partner domestic violence in this province, and they should know that there are serious consequences for assaulting their partner. While advertising the *mandatory* portion of OMCP may not be wise for fear of again leading to non-reporting and/or non-disclosure, it is important that citizens know that intimate-partner domestic violence has consequences for the whole community, not just the victim: that it is not simply a private matter, and that society has a role to play in preventing and stopping intimate-partner domestic abuse.

Recommendations for Future Research

Methodological Improvements

The combination of literature review, semi-structured interviews, quantitative analysis, and participant observation yielded much fruitful data regarding OMCP. In particular, the interviews with police officers, victims, and CSA representatives offered insight into the effectiveness of the policy. There were nonetheless a number of ways in which the methodological approach could be improved in the future.

It became clear over the course of the evaluation that in order glean further insights about victims experiences with the criminal-justice system, a variety of data collection avenues are necessary. This resulted in a self-selection bias among victim respondents, and the exclusion of marginalized voices such as those of aboriginal, disabled and racial minority victims. The following strategies will likely help to improve victim response rates, reduce self-selection bias, and include some marginalized voices:

- Include focus groups and mail-out surveys as additional data collection tools with victims.
- Mail invitations to participate in interviews and/or focus groups to victims using the PLCPS Niche database.
- Connect with the YWCA and/or other community service agencies in a partnership for soliciting victims' input. This could involve asking other CSAs to solicit their clients for interview participants, to hand out surveys, or to co-organize and facilitate focus groups with victims.
- Offer a transportation allowance for victims who agree to attend the PLCPS station for interviews

At the aggregate level, it is critical that any further evaluation gain access to the PLCPS domestic violence statistics prior to 2006. Once the data is obtained prior to 2000, it would be possible to compare rates of arrests for domestic violence-related crimes and rates of intimate-partner domestic violence reported to police. Such an analysis would likely yield important findings about the aggregate effect of OMCP on reducing the incidence of domestic violence in Peterborough. These

findings could be compared to provincial and national statistics, including against statistics from provinces that do not have a mandatory arrest policy for domestic violence crimes.

A second important quantitative analysis that is still needed is to delineate between 'previous occurrences' listed on PLCPS arrest reports to be able to determine whether those domestic occurrences resulted in charges or not. This would allow for a more in-depth analysis of victims' disposition regarding OMCP according to their prior experience with it.

With regards to soliciting data from police sources, *an anonymous survey distributed to frontline officers through the platoons likely would have yielded more reliable findings regarding police opinions of the effectiveness of OMCP.* A survey would also allow for areas of inquiry such as the effect of the removal of police discretion on officer morale. Also, more ride-alongs with officers would give the evaluators time to establish more of a rapport with officers and gain their trust, while simultaneously allowing evaluators to be able to describe firsthand the dynamics and challenges of attending domestic occurrences resulting in arrest.

A further evaluation would also benefit from soliciting more input from CSAs that represent and work with marginalized victims (aboriginal, disabled, racial minority, out of residence, etc.). Though several attempts were made to contact aboriginal organizations, none were ultimately interviewed, to the detriment of the evaluation.

Areas For Future Research

The findings generated in this evaluation and the conclusions drawn from them illumine a number of important areas for both confirmation of these findings and for further exploration.

- **Most important is to track victims' support for charges against their partner and for OMCP through time.** This evaluation was only able to offer concrete findings regarding victims' support for charges (or lack thereof) at the time of police investigation. While the qualitative findings support one of the two hypotheses that can be drawn from proxy data available, quantitative data regarding victims'

opinions of OMCP at the termination of the court proceedings would allow for a more thorough analysis of whether OMCP is indeed leading to non-reporting of domestic violence incidents.

Whether the quantitative research reveals that a majority find the process alienating or not, the qualitative findings from this evaluation revealed that a number of victims feel disempowered by the court process. Thus, *research is required to determine what the impediments are in the court process for victims, and how they can better obtain outcomes that they are satisfied with.*

- **An additional area to be explored is victims' perspective on the effectiveness of the interventions/punishments/treatments for their partners.** It is clear that a significant number of victims are choosing to reunite with their partners at the end of the court process or after probation. Their insights into the effectiveness of the interventions their partners receive to redress their abusive behaviour would be very valuable for improving the delivery of interventions designed to alter the abusive behaviour of the offender, whether it is jail, probation, counseling, or otherwise.

Similarly, tracking individual victims over time, and being able to identify those who become repeat victims, particularly if they occur with the same partner, could offer insights into the effectiveness of offender-oriented interventions. This research could also offer insights into what services victims need to be able to separate from abusive partners.

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Appendices

Appendix A: Semi-Structured Interview Schedules¹

Police

- 1) Can you describe your understanding of the purpose of mandatory charge?
- 2) Can you describe the advantages/disadvantages of mandatory charge for victims?
- 3) Can you describe the advantages/disadvantages of mandatory charge for police?
- 4) What changes, positive or negative, did OMCP bring to domestic violence cases?
- 5) Can you describe a typical victim of domestic violence?
 - a. How does he/she behave around you?
- 6) Can you describe a typical profile, if any exist, for a perpetrator of domestic violence?
- 7) Who may benefit/not benefit from OMCP?
- 8) Is anyone being left out of OMCP?
- 9) How would you rank the seriousness of domestic violence compared to other crimes? (not how the Criminal Code ranks it)
- 10) In your experience, why do victims of domestic violence call the police?
(Is it more to help them out of a specific emergency situation, or because they have finally had enough abuse?)
- 11) Are victims generally aware of the mandatory charge policy, or do you have to explain it to them?
- 12) When you get to a domestic call, is it always clear who is the primary aggressor?
- 13) In a domestic violence occurrence, what are “reasonable grounds” to lay a charge?
- 14) Do you feel that you have all the necessary training you need to always deal with domestic violence occurrences effectively?
 - a. To determine who is the primary aggressor?
 - b. If not, what other training would be useful?
- 15) How much of your/the PLCPS’s time and other resources goes into domestic/domestic violence cases?
- 16) Can you describe other services, other than Victim Services, that are available in Peterborough for victims of domestic-intimate violence?
- 17) Do you think any preference to gender should be considered/implemented under OMCP?
- 18) Is there anything else you would like to share with us?

¹ It should be noted that the all interview schedules were used to simultaneously to satisfy the requirements of this evaluation and also Rachael Edge’s other TCCBE project for the PLCPS on the history and evolution of OMCP.

Victims

- 1) Can you describe what your knowledge is of OMCP*?
 - a. What was your knowledge of it before police involvement?
 - b. How did you come to learn about it?
- 2) Could you please tell us about your experience with police involvement?
- 3) Do you have children? (If yes, could you describe your experience with CAS?).
- 4) Can you describe your feelings or opinions about OMCP?
- 5) Do you think OMCP benefited you (or is benefiting you)? If so, how so? If not, why not?
- 6) Can you describe your interactions with police during the various stages of the process?
 - Do you feel that your experience differed from officer to officer?
 - If yes, can you describe how?
- 7) What, if any, services were made available to you or your partner and family through your involvement with the police?
- 8) Can you tell us about your experience with the court?
 - Did you have a say in the outcome of the charge or not?
 - Were you satisfied with the outcome of Mandatory Charge?
- 9) How have things changed for you since police involvement? (i.e. economically, family, partner, living arrangements)
- 10) Is there anything else you would like to share with us?

Community Services

- 1) Please describe your connection to domestic-intimate violence, and if you are familiar with it, to OMCP?
- 2) Can you tell us about the services you or your organization provide for victims of domestic-intimate violence in Peterborough?
- 3) What other services are you familiar with for victims? Are all services connected? If so, how? If not, what would you recommend to improve communications?
- 4) Can you describe how you feel that non-violent/physical forms of partner abuse can best be addressed?
- 5) What, if any, role do you think the legal system should play in addressing partner abuse?
- 6) Can you identify any patterns of who is a victim of domestic-intimate violence, and/or who is an abuser of domestic-intimate violence?
- 7) What do you think are the root causes of domestic-intimate violence?
- 8) Do you have to call police at any point if a person comes to you seeking advice in a domestic-intimate violence situation? How does this affect the process to OMCP?
- 9) Can you describe your thoughts or feelings about OMCP?

* Though the acronym 'OMCP' is written in the replication of the interview schedules here in an effort to economize room, the full meaning of the acronym was used in the actual interviews.

- 10) Can you describe the advantages and/or disadvantages of mandatory charge for victims?
- 11) Can you describe the advantages and/or disadvantages of mandatory charge for [insert organization here]?
- 12) Can you describe the changes, positive or negative, that OMCP brought to domestic violence cases?
- 13) How can OMCP be improved?
- 14) Is there anything else you would like to share with us?

Victim Services

- 1) Can you describe your understanding of the purpose of OMCP?
- 2) Have you noticed or experienced any changes, from the 1970s until now, of how victims of domestic-intimate violence are treated (under protocol?)
- 3) In your perspective, how has domestic-intimate violence changed, if at all, throughout the years of your involvement with intimate-domestic violence?
- 4) Do you feel feminism has contributed to these changes? If so, how? If not, why not?
- 5) What types of support do you offer to victims of domestic violence?
- 6) (referrals, financial assistance, emotional, explanation of the legal process, explanation of what victims can expect. etc)
- 7) Are you familiar with other services in Peterborough for victims of domestic-intimate violence? If so, what services.
 - a. Do you ever direct victims to these services before charges are laid?
- 8) Can you identify any patterns of who is a victim of domestic-intimate violence, and/or who is an abuser of domestic-intimate violence?
- 9) What are the advantages and/or disadvantages of mandatory charge for victims?
- 10) What are the advantages and/or disadvantages of mandatory charge for Victim Services?
- 11) What changes, positive or negative, did OMCP bring to domestic violence cases?
- 12) Who benefits and who doesn't benefit from OMCP?
- 13) Is anyone being left out of OMCP?
- 14) What is your personal opinion around OMCP?
- 15) How can OMCP be improved?
- 16) Do you think women need any special protection or consideration under mandatory charge?
- 17) Is there anything else you would like to share with us?

Appendix B: Quantitative Variables and Possible Data Values

Variable	Possible Values
Date of Occurrence	-
Sex of Victim	Male, Female
Age of Victim	-
Whether Single or Dual arrest	Single, Dual
Type of Offence	Assault, Assault+ ² , Assault with a weapon, Assault with a weapon+, Attempted Murder, Breach Probation, Fail to Comply, Harassment, Mischief, Mischief+, Utter Threats, Utter Threats+
Nature of Relationship between Victim and Accused	Cohabitation, Common-law, Dating, Ended, Married, On-Off, Separated ³
Who Reported the Incident	Accused, Bystander, Bystander/Victim, Family Member, Friend, Neighbour, Paramedics, Police Patrol, Victim, Victim/Accused
Did the Accused have a previous criminal record?	Yes, No
Extent of Injuries to the Victim	Minor, None, Serious
Number of Children were involved	-
Was CAS Notified?	Yes, No
What Referrals were given to Victims by officers?	Referrals listed
Did the Victim Want the Charge?	Yes, No, Unknown
Number of Previous Incidents Involving these partners	-

² The '+' denotes that the accused was charged with the crime and other lesser offences. For instance, 'Assault+' usually denotes that the accused was charged with Assault and Breach Probation and/or Fail to Comply.

³ 'Separated' was used to define either Common-law or Married partners who were no longer living together. In contrast, 'Ended' was used when a dating relationship had ended.