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Introduction to Criminal Law in a Violence Against Women Context

A webinar presented by Pamela Cross LLP, and
Springtide Resources Ltd, May 3, 2012, 10 a.m.

www.springtideresources.com





Biography of the presenter.

Pamela Cross is a feminist lawyer who works in the violence against women sector. She is an experienced trainer on family and criminal law, particularly as these topics relate to violence against women.

She has developed and delivered a number of online courses on family and criminal law and violence against women. At this time, Pamela is a member of the teaching faculty with the National Judicial Institute, where she plans and delivers educational programs on violence against women to Canadian judges. She is leading the development of violence against women curriculum for law schools in a project with the Law Commission of Ontario.

With Luke's Place Support and Resource Centre, Pamela heads the development and delivery of online resources and training for frontline workers who support unrepresented women through family court as well as in-person training on the family court process for unrepresented women. She is also the lead trainer for Family Court Support Workers in Ontario.





This webinar is based on content from Springtide Resources Inc.'s online training, '***An Overview of Criminal Law and Violence Against Women***'.

For more information on this or other online training we offer please visit

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Topics covered in this Webinar:

1. *Criminal Code*
2. Common charges in violence against women cases
3. Ontario's court system
4. Who does what
5. Language
6. Challenges faced by women involved in criminal court
7. Resources





Disclaimer:

- This information is current to the date of this webinar – May 2012
- This is legal **information**, not legal advice
- Not a replacement for speaking to a lawyer
- This information is specific to Ontario





The Laws:

The *Criminal Code* is a federal law that governs the behaviour of everyone in Canada. There are other federal laws that govern behaviour but they are not directly connected to the issue of violence against women.





The Laws (con't):

There are also provincial laws that regulate behaviour. In Ontario, these include the *Provincial Offences Act*, *Trespass to Property Act*, *Highway Traffic Act* and *Animal Welfare Act*.





The Laws (con't):

There are also family laws that are related to violence against women, but they are dealt with in family court not criminal court.





Violence against women:

Violence against women includes a broad continuum of coercive, threatening, and violent behaviours that are designed to control the thoughts, feelings and actions of a woman through the use of fear, intimidation, humiliation and pain.





Violence against women (con't):

Includes:

- physical violence, including murder
- sexual violence
- stalking/harassment
- psychological abuse





Violence against women and the law:

- not all kinds of violence against women are covered by the *Criminal Code*
- in particular, there is a wide array of psychological abuse for which there is no criminal charge
- need to remember the historical context within which criminal law was developed





Common criminal charges:

Assault charges:

- simple or common assault (Section 265)
- assault with a weapon/causing bodily harm (Section 267)
- aggravated assault (Section 268)





Common criminal charges (con't):

Sexual assault charges:

- simple sexual assault (Section 271)
- sexual assault with a weapon/causing bodily harm (Section 272)
- aggravated sexual assault (Section 273)





Common criminal charges (con't):

Criminal harassment (Section 264)

- prohibits stalking behaviour
- criminal offence created in 1994
- women sometimes choose to deal with stalking without using the criminal law





Common criminal charges (con't):

Other common charges include:

- Uttering threats
- Mischief
- Forcible confinement/kidnapping





Other charges:

Charges can be laid under provincial statutes as well:

- Trespass to property
- Animal cruelty

Being found guilty of any of these charges does not result in a criminal record.





The courts:

- Administration of justice is a provincial responsibility
- Three systems of courts in Ontario
- Ontario Court of Justice (provincial court)
- Superior Court of Justice (federal court)
- Court of Appeal of Ontario





Integrated Domestic Violence Court:

- Pilot, in one location in Toronto
- Running since mid-2011
- Family and criminal matters heard by same judge on same day





Who does what:

The woman:

- Not a party, unless she has been charged
- No right to legal representation, no access to legal aid
- There as a witness for the Crown
- Crown is not her lawyer





Who does what (con't):

Crown Attorney:

- Represents the government
- Prosecutes cases
- Does not represent the victim





Who does what (con't):

Defence lawyer:

- Represents the accused in a criminal trial

Duty counsel:

- Assists unrepresented people in criminal court
- Legal Aid Ontario service





Who does what (con't):

Judges:

- Are provincially or federally appointed
- Must have been lawyers
- Hear cases, decide on outcomes and penalties

Justices of the Peace:

- Political appointments, do not have to be lawyers
- Handle most bail hearings
- Generally handle peace bond applications and provincial offence cases





Who does what (con't):

Victim Witness Assistance Program (V/WAP)

- Program within Crown's office
- Duty to share information with Crown
- Supports and assists victims through the criminal process





Bail safety programs:

- At 12 court sites in Ontario
- Provides additional pre-bail support in VAW cases
- Designated Crown, V/WAP and police officer do enhanced threat assessment before the bail hearing





The jargon:

- Bail
- Beyond a reasonable doubt
- Complainant





The jargon (con't):

- Indictable/summary/hybrid offence
- Peace bond
- Subpoena





The jargon (con't):

- Surety
- Victim impact statement





Challenges facing women in criminal court:

- Mandatory charging
- Myths and stereotypes about violence against women
- Lack of access to legal information and representation
- Barriers for women from marginalized communities





Your role:

- Believe the woman
- Support her in a non-judgmental way
- Help her with safety planning
- Explain court process to her





Your role (con't):

- Make appropriate referrals (e.g. V/WAP, duty counsel if she has been charged)
- Share online resources with her
- Advocate on her behalf





Resources:

General legal information

- www.attorneygeneral.jus.on.ca
- www.legalaid.on.ca
- www.ojen.ca
- www.yourlegalrights.on.ca





Resources (cont'd):

Preparing for court

- www.courtprep.ca

Violence against women and court

- www.owjn.org
- www.violetnet.org



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