“No-Drop Policies” Are Harming Some Women

Author: Holly Johnson

Public policies addressing violence against women has changed dramatically over the last few decades in a way that may be harming some women. In the case of intimate partner violence there has been a shift from police and prosecutor discretion to no-drop policies in which police are mandated to lay charges against the aggressor and prosecutions go forward regardless of victims’ wishes.

Intimate partner violence against women is a serious social problem. Certain forms of intimate partner violence, or domestic violence, are considered crimes under the Canadian Criminal Code, including physical assault, uttering threats, criminal harassment, sexual assault, and homicide. Other forms of violence, such as psychological or emotional abuse, financial abuse, and social isolation fall outside the jurisdiction of a justice system response, but can also have damaging consequences for victims and affect their ability to secure safety for themselves and their children.

The experience of intimate partner violence is different for women and men in important ways, with women fearing for their lives and the safety of their children to a much greater extent than men. They are much more likely to be physically hurt, require medical attention, and experience repeated assaults, and are more likely to be stalked, harassed, and killed by partners.

Before the 1980s, police adopted a minimalist stance to the treatment of domestic violence, with
Even with the introduction of no-drop policies, “significant proportions of convicted offenders are not deterred from further violence.”

Holly Johnson of the University of Ottawa and Myrna Dawson of the University of Guelph argue that while these policies are important symbolically, there are reasons to be concerned. In *Violence Against Women in Canada: Research and Policy Perspectives*, recently published by the Oxford University Press, they show that the rapid expansion of strict no-drop policies have taken place despite concerns about effectiveness and pressures on victims to testify. These policies are harming some women.

While research in some jurisdictions shows that this type of specialized approach to partner violence can lead to increased victim reporting, conviction rates, probation supervision, jail sentences, and court-mandated treatment for violent partners, a significant proportion of convicted offenders are not deterred from further violence. In many cases women are not safer as a result of criminal justice intervention.

One unintended consequence of strict no-drop policies is dual charging, a situation in which criminal charges are laid against both the victim and the violent partner. This experience is detrimental and may deter victims from seeking help. This is particularly true for immigrant women for whom legal interventions may already be seen to bring more negative than positive outcomes.

Most women victims of intimate partner violence who call the police are seeking protection and an immediate resolution to a particular incident of abuse; only a subset are committed to long-term involvement with prosecution and the harsh punishment of the abuser. Recanting their statement is often the only way to assert their wish not to prosecute. Rather than receiving support, these victims are seen as obstructing the goals of a justice system set up to assist them.

Pro-arrest and pro-prosecution policies, and specialized domestic violence court processes are now deeply embedded in the Canadian criminal
Justice response to intimate partner violence. But this has occurred in the absence of a clear understanding of what actually works to make women safer, and how this might differ by the specific circumstances of groups of women.

The authors note that there are some apparent benefits of a strong criminal justice response, but within the wider policy context, domestic violence crimes continue to be approached as an individual problem rather than a broader systemic issue of gender and other inequalities.

For example, the policy and legal framework has re-interpreted gendered crimes that affect women specifically or more acutely to be issues not of “violence against women” and “women’s safety,” but rather as “domestic” or “family” violence.

Critics point out that this strategy distorts the nature of the problem and shifts public discourse and public policy from a broader framework of gender and other social hierarchies. The emphasis on individual responsibility disconnects violence from the broader material conditions of women’s lives and, in turn, strengthens a law-and-order agenda.

Professors Johnson and Dawson call for a more subtle examination of the criminal justice system from the perspective of the women caught up in the process, and for evaluations to pinpoint which interventions have had positive outcomes and for whom.

Holly Johnson is an Associate Professor with the Department of Criminology at the University of Ottawa. She is involved in many national and international networks aimed at preventing violence against women and improving criminal justice and societal responses to these crimes. Her current program of research examines the criminal justice system from the perspective of the women who use them.

She can be reached via email at Holly.Johnson@uOttawa.ca. A link to the Oxford University Press web site describing this book and how to obtain it is available at http://www.oupcanada.com/catalog/9780195429817.html.