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JUSTICE

RESEARCH NOTES

What Is the Relevance of Justice Research and Development in the 1990s?

The dramatic social, political and economic changes taking place in Canada today bring into question many assumptions about long-held societal values and goals and the legal and other mechanisms that can best serve indi-

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vidual and national aspirations. This complex of forces poses an enormous challenge for the development of fair and equitable justice policies.

The Department of Justice Research and Development Directorate recently undertook a planning exercise that resulted in a comprehensive three-year plan to help the Department meet the demands of the 1990s. Uppermost in this plan was the development and maintenance of a sound information base.

The following excerpts from that planning document illustrate the overall rationale for the research and development program. It will also help to explain why the Department believes it is important that its research reports and the results

of the development activities generated here be shared more widely. A continuing objective is to make these materials available for comment, criticism and use by all Canadians who believe that good information — and, in particular, information obtained from good social science research and demonstration projects — provides a powerful instrument for sensitive and innovative problem solving. That, for example, is one of the major purposes of *Justice Research Notes*.

Organization of the Policy Research Function

The Research and Development Directorate is responsible for a highly interdependent set of functions, all of which are intended to support and improve the ability of the Department to be innovative and effective in response to challenges and opportunities. The Directorate is responsible for all the social science-based (empirical) research; for the development and evaluation of demonstration projects; for statistical analysis; and, in conjunction with the Canadian Centre for Justice Statistics and the Ministry of the Solicitor General, for the promotion and development

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IN THIS ISSUE

Justice for Canada's Native People	1404-32	3
Native People - Sentencing Study	1404-33	7
Effects of Pornography	1404-34	9
Responding to Wife Assault	1404-35	11





In Search of a More Effective Response to the Problems of Wife Assault

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The role of the criminal justice system in dealing with wife assault has been scrutinized over the past two decades.

In the 1970s, innovative police departments began to experiment with domestic assault crisis teams whose mandate was to be sensitive to the concerns and needs of victims. In the late

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1970s and early 1980s, women's groups pressed governments to emphasize the criminal nature of wife assault and to rely on charges rather than attempt to mediate disputes. In 1982, the federal Solicitor General urged Canadian police chiefs to adopt aggressive charging policies in wife assault cases. Since then, all provinces have adopted such policies. Nevertheless, problems have continued.

Recent experiences suggest that many women who are battered do not want to have their case proceed through court to conviction and sentencing. In addition, domestic assault cases have been added to the backlog of cases awaiting court. A new search for creative ways to intervene in wife assault cases has begun.

The Department Launches a New Study

To help address concerns about the efficacy of existing policies and programs within the criminal justice system, the Department of Justice commissioned a study by independent consultants Linda MacLeod and Cheryl Picard. Their report, *Toward a More Effective Criminal Justice Response to Wife Assault*, was published as a working document in November 1990. Following were the objectives of the study.

- ▶ To clarify the experiences of battered women within the criminal justice system and identify their needs.
- ▶ To identify the experiences and concerns of police, crown attorneys, defence lawyers, judges, and other front-line health and social service workers.
- ▶ To identify a range of ways in which the justice system can intervene to reduce the impact and incidence of wife assault.

Data for the study were gathered from several sources. A preliminary assessment of the issues was made from discussions with key informants, a literature review, and proceedings from relevant conferences. Interviews were held with Canadian authorities as well as with women who had been battered. Experts were also contacted in the United States. Finally, three full-day focus-group discussions were held with people from different sectors of the justice system, including social service workers, academics, and victims themselves.

Issues of particular interest to the Department of Justice included the recent charging policies adopted by police, and the use of mediation of disputes and other nonadversarial approaches. Because of the Department's ongoing

evaluation of mandatory charging practices it was felt that the study should focus on post-charge rather than precharge approaches.

Findings of the Study

- ▶ According to victims and social service workers, women's ambivalence toward the justice system may be a function of the fact that, although justice services offer them one of the few opportunities they have for protection, these same services reduce their ability to devise their own solutions.
- ▶ Research indicates that since more aggressive charging and prosecution policies have come into effect, criminal justice intervention *is* reducing violence.
- ▶ A number of alternatives to the criminal justice system have been attempted in Canada and the United States. Mediation was one alternative discussed in the study. It was found to be a controversial measure that raised issues of power, protection, autonomy and credibility. There was little agreement about its benefits in these cases.
- ▶ Although no specific solutions were found that would point the way to more creative intervention by the justice system in situations of wife assault, some suggestions were made. These included the following recommendations.

Women should be provided with clear, honest information about their options, including benefits and pitfalls.

Advocates for women should be available from the moment police are called in.

Men should be removed from the home, not the women and children.

Judges should be better trained to understand the complexity of wife assault.

More counselling programs are needed for children living in homes in which women are battered.

Lawyers should be further sensitized to the needs and experiences of battered women.

A Shift Away from Criminal Justice Intervention

In sum, this study provided evidence that intervention approaches are shifting in the area of wife assault. In some provinces this shift is noticeably away from an earlier emphasis on criminal justice intervention. Across the country there is considerable debate about the effectiveness of the police departments' charging policies and a concomitant, renewed emphasis on nonadversarial intervention.

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Toward a More Effective Criminal Justice Response to Wife Assault: Exploring the Limits and Potential of Effective Intervention, by Linda MacLeod and Cheryl Picard. Working Document. WD1990 1a. Research Section, Department of Justice. For copies, contact: Research Section, Department of Justice Canada, Ottawa K1A 0H8. (613) 957-9632.