

The Benefits and Impacts of Mandatory Charging in Ontario: Perceptions of Abused Women, Service Providers and Police

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The Benefits and Impacts of Mandatory Charging in Ontario: Perceptions of Abused Women, Service Providers and Police

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Mandatory charging, introduced by the federal Solicitor General in 1982, came into use across Ontario over the following decade as one component of an aggressive criminal justice response to intimate partner violence (IPV). This policy places the onus on police officers to lay charges against violent partners where there are reasonable and probable grounds to do so thus removing this decision from victims. In 2009, the Ontario Domestic Violence Advisory Council called for a study to assess the impact of mandatory charging¹. This research responds to that call, examining benefits and impacts of the policy for abused women and their families.

The researchers partnered with local Violence Against Women Coordinating Committees (VAWCCs) across Ontario through the Ottawa Coalition to End Violence Against Women (OCTEVAW) and the Building a Bigger Wave Ontario Network (BBWON). VAWCCs are comprised of representatives of VAW and women's advocates, shelters, and other front-line agencies providing support to victims and their families as well as programming for offenders. Coordinating Committees are multi-sectoral and include representatives from social services, justice, health, education agencies and community advocates. Input from coordinating committee representatives and a review of social science research on this topic provided the background for the development of three online questionnaires: one for women, one for service providers, and one for police.² Study participants were recruited in

Highlights

- Service providers express stronger support for mandatory charging policies than abused women or police. One quarter of police officers feel the policy is bad for most women most of the time.
- Support for the policy increases with years of experience working in policing or community agencies.
- Women reported that police laid charges in half of cases. Charges are more likely to be laid when women are in favour or were unsure whether they wanted charges, or when they were physically injured.
- Women who had positive ratings of mandatory charging were those who wanted their partners charged or were unsure and police did lay charges.
- One quarter of women are more likely to call police in the future now that they know about mandatory charging and a similar percentage are less willing.
- Shifting the responsibility for laying charges from women to police is cited as a top benefit by all three groups. For abused women, other benefits relate to being able to leave the relationship, validation that abuse is wrong, connecting women to resources and safety.
- Negative consequences for abused women include weak penalties, lack of support for abusers, and abusers' anger at being charged.
- Police are more likely than abused women or service providers to cite problems with women being unprepared for the impacts of criminal justice system involvement and women not wanting partners charged.
- Participants from all three groups emphasize a need for community supports in order to achieve benefits and reduce negative consequences of the policy.

¹ Freeman, C. *Transforming our communities: Report from the Domestic Violence Advisory Council for the Minister Responsible for Women's Issues*. Toronto, CA: Domestic Violence Advisory Council, 2009.

²The participation criteria for survivors were that they must be 18 years of age or older, have experienced violence or abuse within an intimate partnership within the last 5 years while living in Ontario, be living as a woman now and at the time of the abuse, and not be involved in an active police investigation or criminal court hearing

late 2016 and early 2017 through the local coordinating committees who posted invitations on websites, newsletters and social media. In total, 293 women survivors, 289 front-line service providers and 113 police officers from across the province came forward to share their views. The appendix provides additional details of the study participants and the methodology.

Abused women's experiences with police and mandatory charging

Women were invited to discuss violence or abuse in their most recent relationship, whether or not they had contacted the police. Overall, half of the women (49%) had had contact with police and 61% of these had contact with police more than once. Reporting rates were higher for English-speaking than for French-speaking women (58% vs 46%).³ Some unreported cases involved violence that was quite serious. For instance, 20% of women who suffered physical injuries serious enough to warrant medical attention and 37% of women who were very afraid of their partners did not report to police.

The reasons women gave for not contacting the police were varied (Figure 1). Many cited concerns about interacting with police, such as being worried police involvement would make the situation worse (43%).

I would never call them for help specifically because of this policy. There are many times that I would have called for help because I wanted him to be taken away that night, or until he was sober, but I don't call because of the long-term consequences. He was charged during another incident when a family member called but I still get in trouble for that. I can honestly say that I think this policy has increased the amount of times I have been assaulted because I could not call for help. (survivor with male partner, police contacted by someone else, she thinks it's a bad policy overall and it was bad for her, charges were not laid this time and she did not want charges)

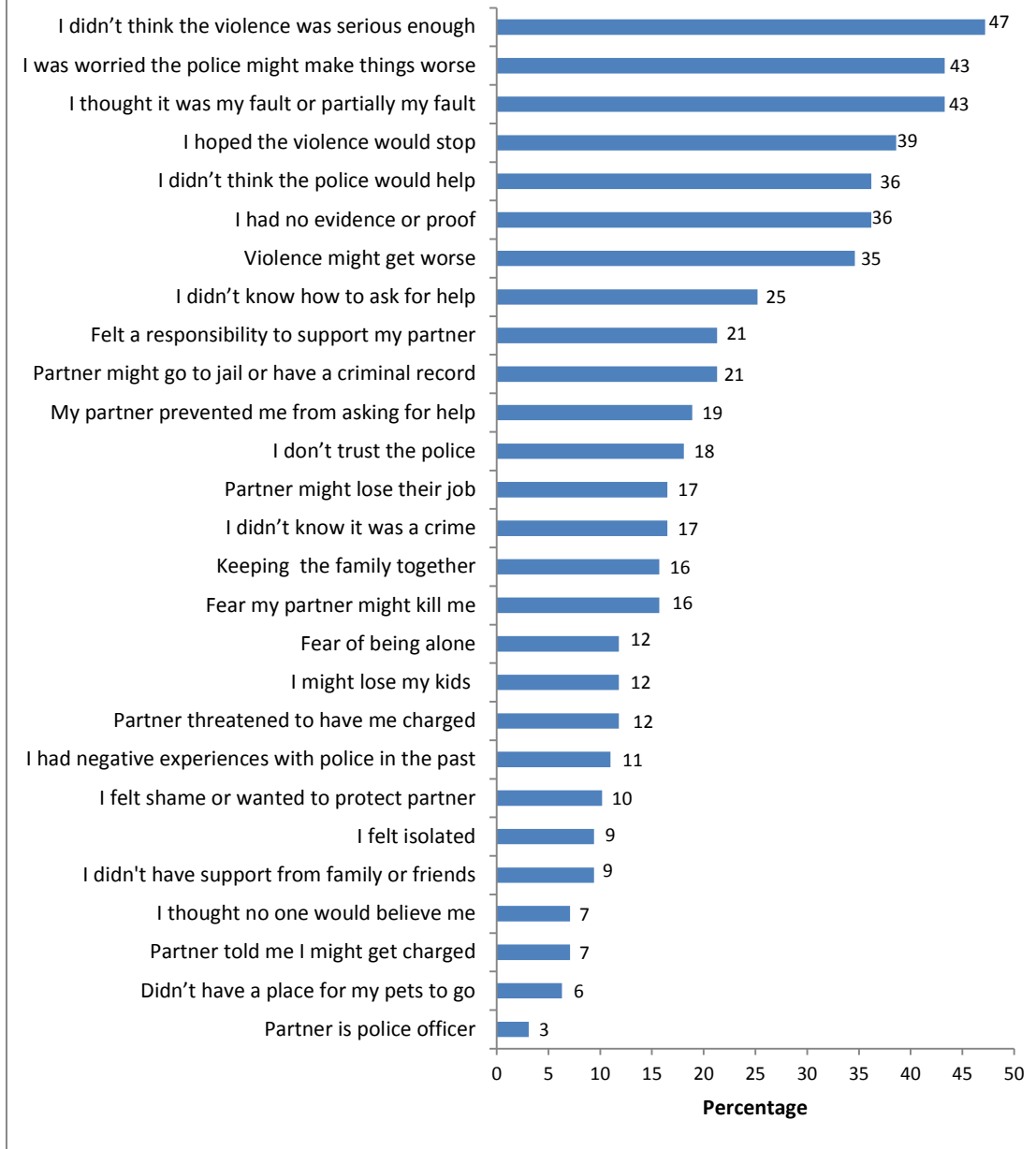
Others believed the police wouldn't help (36%), believed they lacked evidence (36%), lacked trust in the police (18%), or had had negative experiences with police in the past (11%). For a few women, the abusers were police officers.

The seven ethnic minority and nine Indigenous women who did not report to the police were more likely to cite lack of trust in the police (38% compared with 15% of Caucasian women) and negative experiences with police in the past (31% compared with 8%). To illustrate:

As a woman of colour, who is now in law school I still do not trust the police. And I never will. They wield too much power and have never been helpful for me. It would take a lot for me to ever contact them. (survivor with male partner, police not contacted, thinks the policy is good overall)

regarding the abusive relationship. Criteria for police and service providers were that they must have direct experience working with women who are survivors of intimate partner violence in Ontario in the last 5 years.
³ Women were asked if they spoke English or French well enough to hold a conversation. All but one French-speaking woman also spoke English.

Figure 1: Reasons for not reporting to police



Note: Percentages are based on 127 women who did not have contact with the police.

Women also cited reasons apart from the justice system such as not knowing how to ask for help (25%) or feeling too isolated (9%). Women had a number of worries about the situation getting worse, including concerns about the violence escalating (35%) even to the point of being killed (16%), having their partners incarcerated or having a criminal record (21%) or losing their job (16%), and feeling a responsibility to support their partner (21%) or keep the family together (16%). Almost half didn't think the violence was serious enough to involve the police or thought it was their fault and a smaller percentage didn't realize that what was happening to them was a crime. Thirty-nine percent said they hoped the violence would stop without having to involve the police. Some had partners who prevented

the women from getting help or threatened to have the women charged. Shame or wanting to protect the abuser and lack of support from family and friends were cited less frequently.

When police were contacted (128 women) they laid charges against abusive partners in 52% of cases, against the woman in 5%, and in one case they laid charges against both the woman and her partner.

Many women did not want to become further involved with the criminal justice system, or they were unsure. One-quarter of women who contacted the police (27%) did not want charges laid, 36% wanted charges laid, and 34% were unsure (the remaining 3% did not say). In some cases the police officer's charging decision was at odds with the woman's wishes. Police were more likely to lay charges against abusive partners in cases where women wanted charges or were unsure (67% and 60%, respectively) compared to when they did not favour charges (32%). For women who did not want charges laid, the police officer's decision was consistent with these wishes for just over half (56%; in 9% of these cases police charged both the woman and her partner).

Police were also more likely to lay charges in cases where women had suffered physical injuries at some point in the relationship (61% compared to 21% of cases with no injuries).⁴ Charges were slightly more likely where injuries were serious enough to require medical attention (64%).

Sixty-three percent of women who reported to the police stated that the officer's actions were helpful (26% very helpful and 37% somewhat helpful) and 33% said they were not helpful (4% did not answer the question). Higher proportions of women whose partners were charged found the police to be very or somewhat helpful (35% and 39% respectively) compared to women whose partners were not charged. However, a substantial proportion found the police to be helpful even though they did not lay charges (14% very helpful and 39% somewhat helpful) suggesting that other actions taken by police to assist survivors (such as connecting them with community resources or giving the message that abuse is wrong), are relevant and useful to women.

They arranged for me to meet with them at a neutral location, they initiated conversation with my ex and kept him away from me and occupied while I was able to get my things. (survivor with male partner who was not charged, police actions very helpful and she was very satisfied with the outcome, whether it is a good or bad policy depends on the circumstances, knowing about the policy makes her more willing to contact police)

Once police contacted him, all threats stopped immediately. (survivor with male partner who was not charged, police were very helpful and she was very satisfied with the outcome, she is not sure if it is a good policy or if knowing about it makes her more willing to call)

Compared to helpfulness of the actions of police, women were less likely to say they were satisfied with the outcome of having the abuse reported: just 17% were very satisfied and 28% were somewhat satisfied with the outcome. Satisfaction was related to having charges laid: 20% of women whose partners were charged were very satisfied and 35% were somewhat satisfied. Satisfaction was lower for

⁴ This is an indicator of the severity of violence in the relationship. Due to the structure of the questionnaire, it is not possible to know the level of injury in the specific incident in which police were contacted.

women whose partners were not charged (14% were very and 20% were somewhat satisfied). However, substantial percentages of women whose partners were charged were dissatisfied (41%) which may extend to actions taken by others in the justice system apart from police.

When women were charged

Seven women who responded to the survey had been charged by the police. Their experiences ranged from defensive violence in the context of a violent relationship to stories fabricated by their partners, to one woman who hit her partner and felt she benefited from the policy because she learned how to deal with her anger. In the words of these women:

I explained to the police that I hit my partner to defend myself and I got charged with domestic abuse and did 6 months' probation. This is after the fact that my partner is well known to police and has a long violent record. I really do not believe I deserve to have a record now because I am a victim of his abuse, this is just another way the abuse continues to play out within society. (survivor, was very afraid of partner, someone else contacted the police, both she and male partner charged, wanted charges against partner, has mixed feelings about policy generally and does not know if it was good for her)

Everything that my partner did to me he turned around and told the police that I was the one who did them. They never even asked me why I originally called or asked any questions, just listened to his story of what I apparently did to him and laid charges immediately. (survivor, she was charged and not male partner, didn't know if she wanted charges against partner, has mixed feelings about policy and feels it was bad in her case)

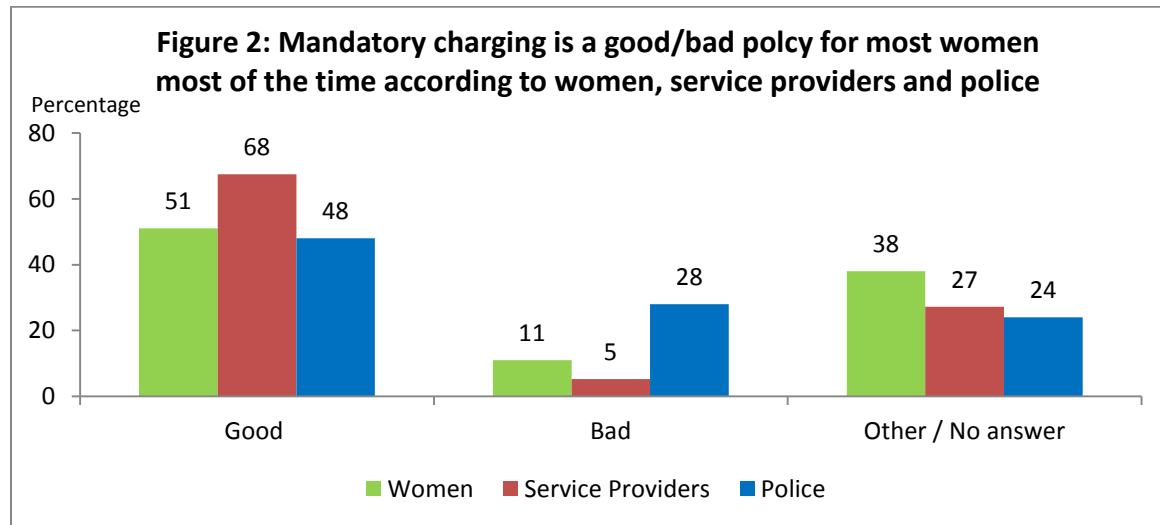
I hit my partner because he cheated on me and I was stressed out. (survivor who experienced verbal abuse and controlling behaviours from partner, someone else contacted the police, she was charged and convicted, believes it is a good policy and was good in her case as she learned how to deal with her anger)

Perceptions of the mandatory charging policy

Women, service providers and police were asked whether mandatory charging was a good or bad policy for most women most of the time. Service providers were the group most likely to describe it as a good policy (68%), women were second (51%) and police least likely (45%) (Figure 2). Police officers were the group most likely to view the policy negatively (27%). In addition, more than one quarter of police officers and service providers and almost four in ten women would not describe the policy as either good or bad (choosing "other" or no answer) and added comments that show the complexity of many situations of intimate partner violence. A higher percentage of English- than French-speaking women had positive views of the policy (54% v 44%).

Among women who had direct experience with the policy through involvement with the police, a lower percentage felt that the policy was good for them in their specific case (39%), the same percentage were undecided (39%), 16% said it was a bad policy, and 6% did not say. Women who had the most positive ratings of mandatory charging in their own situation were those who wanted their partners charged or were unsure and police did lay charges (66% and 84%, respectively). This suggests support among

women for a policy in which police condemn the violence by laying charges, especially in cases where women call the police to intervene yet are unsure about further involvement in the criminal justice system for themselves and their partners. Support for the policy was higher for women who suffered physical injuries at some point in the relationship that were serious enough to require medical attention (46% vs 23% of uninjured women). Support for the policy in their own case was slightly higher for French-speaking than for English-speaking women (43% vs 38%).



Expressing approval of the policy, several women emphasized the difficulty of recognizing the abuse as wrong and the importance of getting connected to supports in the community.

I was so controlled for so long by my husband that I could not think clearly enough to know that his abuse was wrong enough to involve the police. All it would have taken was an arched eyebrow from him, something someone else might not have even noticed, to make me confused and afraid enough to "take it all back." (survivor with male partner, thinks it is a good policy, police were not contacted, she is more willing to report in future knowing about the policy)

My ex abused me verbally, physically for over 30 years, the first time he hit me I told his mother, she said I must have done something to deserve it. I never told anyone again until 32 years later when I was strong enough to make it on my own. I told my doctor, I told a judge and I told a therapist, and then I told the cops, they all told me that what I had grown to accept as normal was not right and they took it out of my hands, and charged him with abuse. ... I received so much flak from his family, "How dare I ruin the family name" etc. it was easier for me when it was out of my hands. (survivor with male partner, thinks it is a good policy, she would be more willing to report in future knowing about the policy)

Others think the policy has both good and bad aspects:

I think in some cases it is a good policy, to protect women ... [However] in some cases (like mine), it is unfair that I had no say in whether my partner was charged or not. (survivor, has mixed feelings about the policy generally, feels it was bad in her case, male partner charged)

It has both good and bad qualities... [For me specifically it was good.] He was able to receive the help he needed! Counselling and group. This has changed his behaviour. (survivor, has mixed feelings about the policy in general, feels it was good in her case, male partner was charged, she did not want charges)

I think the mandatory charging is not good for EVERY woman. Charging should be based on the particular case/situation. ... The mandatory charging process took 7 months - I was stuck with taking care of my infant baby by myself while dealing with emotional shock. (survivor, does not know if the policy is good or bad in general, feels it was bad in her case, male partner charged, she did not want charges)

Those who saw the policy as negative commented on how mandatory charging can make things more difficult for some women, and the need to recognize the complexities of human relationships:

There are times when we may need help to calm our partner down. We may not want them charged. Who can we turn to if there is a mandatory charge policy? (survivor, believes it is bad policy generally and was bad in her case, male partner was not charged, she did not want charges)

Women that are looking for another (more complicated but more effective) tool have no option. I don't know why government is so afraid of community based responses, transformative justice, conflict resolution ... But I'd like more options; more holistic responses... (survivor, believes it is bad policy generally and was bad for her, male partner charged, she did not want charges)

Police officers who support the policy see value in being able to move forward with charges even when victims may be opposed, especially when the assaults are serious, and see benefits in conditions placed on the accused, such as no-contact orders. Others cited examples of women who did not want charges laid or expressed concerns about a one-size-fits-all approach to policing a wide array of violence and abuse:

Most of the time it is good, however there are enough circumstances that are severely impacted in a negative way where[it would be better] if police were able to use some discretion and make a decisions on looking at the whole picture and doing what's really best for the woman and family. (Female investigator with less than 10 years of experience)

Female officers were more likely than male officers to say it is a good policy (55% vs 39%). Investigators or domestic violence supervisors (47%) are more likely than patrol officers (35%) to support the policy, and other senior positions, including chiefs, are most likely to say it is good for most women most of the time (77%). Years of experience in policing is also associated with opinions about the policy: those who

have worked in policing for over 10 years were more likely to consider it a good policy than those with 10 or fewer years of experience (54% vs 32%).

Similar to police, support for the policy among service providers rose with number of years working in this field: 74% of those who have worked in the field for more than 5 years said it was a good policy for most women most of the time compared with 50% of those with 5 or fewer years of experience.

Service providers' opinions about the policy also varied according to the type of agency in which they worked. Those working in the VAW sector (e.g. shelters, counsellors, transitional support, sexual assault crisis centres) indicated lower support for mandatory charging compared to those working in other agencies. Sixty-two percent of respondents in this group felt the policy was good for most women most of the time compared with 86% of those working in victim services, social services or public health, 80% of those working in corrections (such as probation), 78% of those working in hospital-based partner assault services, and 77% of employees of child welfare agencies. Counsellors in partner assault response (PAR)⁵ programs were more supportive of the policy if they were working to provide outreach to female partners of violent men (77%) than if they worked with women who had been charged by police (67%). Study participants working in mental health and addictions fell slightly above average at 70% in support of the policy.

A woman needs to do it herself... if someone else does it... an abused woman feels like something has been taken away from her.... (female service provider, VAW sector, 3 to 5 years of experience, sees it as bad policy)

The impact of abuse can be extremely immobilizing on the victim... the victim's and her children's safety is increased if the law takes control of the situation & leaves it out of her hands. (female service provider, VAW sector, over 20 years' experience, sees it as good policy)

[Mandatory charging is]... good when it is power and control, bad when it is situational violence (female service provider, victim services, over 20 years of experience, sees it as good policy)

Benefits and consequences of the mandatory charging policy

Service providers, police officers and the 66 women whose partners were charged were asked to identify the five top benefits and negative consequences of the mandatory charging policy. As shown in Figure 3, while service providers' and police officers' impressions of the benefits of the policy echoed those of women in many areas, they also differed in important ways. For example, 82% of women said that being able to leave abusive relationships is a top benefit compared with just 25% of service providers and 32% of police officers. Women were also more likely to cite as benefits that, through mandatory charging, women get the message that abuse is wrong, they and their partners get connected to community resources, and they and their children are safer.

⁵ Partner Abuse Response programs in Ontario provide programming for men and women who have used violence in intimate relationships.

I suspect that had my partner not been removed from my home when he was, I would have sustained much more serious injury or death. (survivor, good policy generally, good for her, male partner charged, she didn't know if she wanted charges)

The three respondent groups were similar in their views that mandatory charging is beneficial since police and not women are responsible for charges being laid, that women cannot be pressured by their partners to drop charges, and that partners are told abuse is wrong. Relatively small percentages in all three groups see involvement of child welfare agencies that results from mandatory charging as one of the top 5 benefits. One-third of police officers cited as a benefit of mandatory charging that they are able to provide a more consistent response to intimate partner violence and the same percentage cited the ability to identify repeat offenders. Almost two-thirds of women, half of service providers and over one-quarter of police officers identified the ability to connect women to community resources as a benefit of the policy.

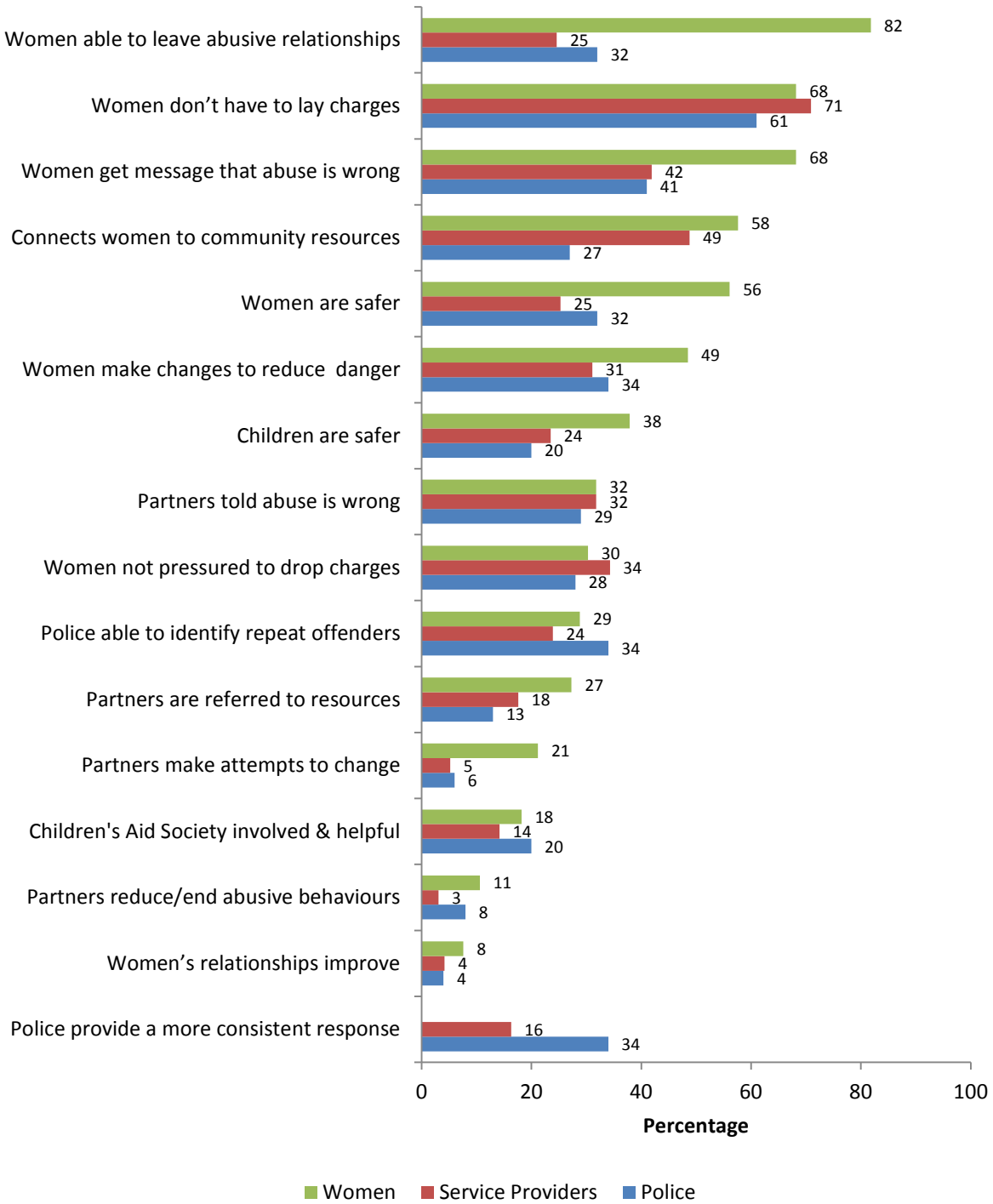
I think mandatory charging can be helpful most of the time as it may be the woman's first and only opportunity to have someone stand up to her abuser... the key to this is to have educated, insightful, experienced police officers on the scene who are able to take the time and assess the dynamics of power and control. (female service provider, VAW sector, less than 5 years of experience, good policy)

Views concerning the most important negative consequences of the mandatory charging policy showed more differences among the groups (Figure 4). Police officers were more likely than women or service providers to cite as negative consequences that many women are not prepared for the impacts of involvement with the criminal justice system on their lives, often do not want their partners charged, and experience financial problems as a result of the charges. The story told by one officer illustrates this:

Woman victim wanted to have charges dropped in a minor assault case, citing wanting to go to counselling that dealt with abuse but also other contributing factors (financial, etc.) Crown refused to drop charges. Victim began to hide from her life to avoid being served a subpoena for court. She stopped staying at home and police coming to work place began to cause issues with employer. In the end it was the police that went to the Crown to have charges stayed citing victimization of victim as the state was now abusing her. (male supervisor of IPV investigative section, over ten years of experience, good policy)

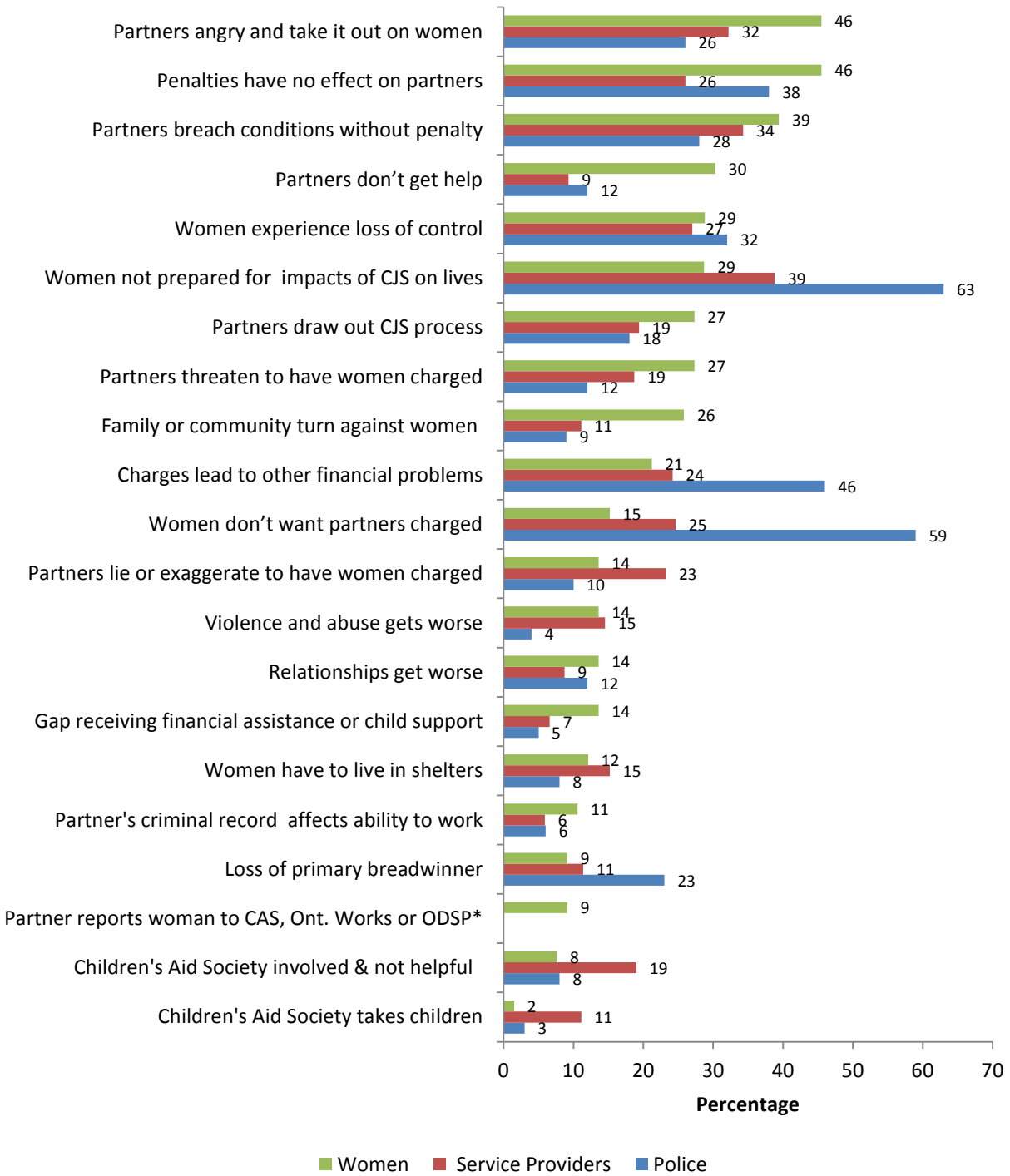
Top negative consequences for service providers were that women are unprepared for the impacts of involvement in the criminal justice system as well as issues related to partners, such as penalties that had no effect and lack of consequences for breaching court-ordered conditions, and partners taking out their anger on the women for being charged, abusing the criminal justice process by drawing it out, threatening to have women charged, or lying or exaggerating to police to have women charged. They also cited concerns about financial impacts on women and the family and a perception that in many cases women don't want their partners charged. Service providers were more likely than police officers or women to identify involvement of child welfare as a negative consequence of mandatory charging, along with removal of children, and family courts awarding custody to violent partners.

Figure 3: Top 5 Benefits of mandatory charging as experienced by women whose partners were charged, service providers, and police



Note: women were not asked about police providing a more consistent response.

Figure 4: Top 5 negative consequences of mandatory charging as experienced by women whose partners were charged, service providers, and police



Note: 'Partner reports woman to CAS, Ont. Works or ODSP' was included on the women's questionnaire only.

* Children's Aid Society, Ontario Works, Ontario Disability Support Program.

Although some abused women identified the financial implications of mandatory charging as a negative consequence, they were more likely to identify ineffective penalties and lack of treatment for partners, as well as partners' anger, drawing out the process, and threatening the women with charges. Higher percentages of women, compared to service providers or police, say mandatory charging can result in the woman's family or community turning against her. Women were far less likely than police or service providers to say that the policy is a problem because many women do not want their partners charged, although a higher percentage felt the policy resulted in a loss of control for women, a percentage that is similar to service providers and police.

Women's knowledge about the mandatory charging policy

Just over one third of women knew about the mandatory policy in Ontario before the last incident of abuse and awareness of the policy was higher among English-speaking women than French-speaking women (38% vs 29%). Fourteen percent of these women indicated that this knowledge affected their decision regarding whether to report at that time. Knowing about the policy now makes 28% of all women participating in the study more willing to call police in the future, 24% less willing and for 31% it made no difference. The remaining 17% were unsure or did not respond to the question.

Concerns about mandatory charging

Participants from all three groups, regardless of their opinion about the policy (good/bad/mixed) expressed concerns regarding mandatory charging which fell generally into seven themes. All three groups called for **expanding supports** for women and their families when calls are made to police, whether or not charges are laid and women and service providers identified the **need to protect survivors** after a charge has been laid. Many service providers and women suggested **further training** for police officers around intimate partner violence. There were calls from within all three groups, but especially police, for more **discretion** on the part of police regarding whether to lay charges in cases they consider to be minor. Such discretion would require an ability to define and **differentiate** 'minor' incidents from ongoing and serious violence and coercive control, an ability called into question through a number of participant comments. On the flip side, there were also calls from women and service providers for a more **consistent application** of the policy by police and specifically for charges to be laid as specified in the policy. Finally, a number of participants said that the **public needs to be educated** as to the existence of the policy.

1. Expanded social supports

Participants from all three groups saw expanded social supports for women and their families as crucial to achieving benefits from mandatory charging and reducing the negative consequences. Many noted an increase in women's vulnerability to violence when a charge is laid. As well it was noted that women need support to go through the criminal justice process.

[The policy] could be very good as long as there is support and other services provide help for the victim after their partner has been charged (shelter, health services, etc.) so if the partner

comes back the victim won't be attacked again. (survivor, male partner, police not contacted, mixed feelings about policy, more willing to report knowing now about policy)

More involvement of social services and— mostly— the availability of social housing which, together with financial problems, is the biggest barrier for women to leave abusive households.... (female service provider, VAW sector, 11 to 20 years of experience, mixed feelings about policy)

Mandatory charging may prove to be more effective if further supports are added for the victim and children to address the dynamics of the abusive relationship and severance thereof (financial assistance, counseling, court ordered appointed third party for child access etc.). Furthermore, additional benefits may include facilitating counseling for the abuser, imposed compliance measures for CJS [criminal justice system] conditions, and appropriate consequences inflicted when not followed. (female police investigator, over 10 years of experience, believes it is a good policy)

2. Protecting survivors

A number of survivors and service providers suggested more needs to be done to protect women after the charges are laid:

At least if they are charged, there is some way to obtain help and make it known that this is happening and not okay. Only thing is, more needs to be done to protect the women once this happens. (survivor, police contacted 3 to 5 times; very afraid of male partner, partner charged, good policy, good for her, more willing to contact police knowing about policy)

Protecting the woman after the charges [is important] because even though she didn't press charges the abuser always retaliates on her and puts her at greater risk than when she started out. (female service provider, VAW sector, 6 to 10 years of experience, good policy)

If they truly want to catch and punish domestic abusers, they need to make it safe for the abused. Protections and support need to be in place—and more than a piece of paper (e.g. restraining order) no one listens to. (survivor, male partner, injuries requiring medical care, very afraid, police not contacted, bad policy)

3. Training for police

Many service providers and survivors saw a need for training for police in a number of areas including the dynamics and psychological effects of abuse, trauma-informed approaches, empathy for victims, and determination of the primary aggressor to reduce dual charging and charging of the victim. Others recommended having counsellors present when police respond to IPV.

I believe that more training for police officers could help. Having police hear about different types of domestic violence (e.g. intimate terrorism vs. situational couple violence) would be helpful. I believe that some police officers need some training in mental health, addictions, and even training in communication. I have heard several examples of police officers speaking with women in a very derogatory tone and language. (female service provider, VAW sector, over 5 years of experience, believes it is a good policy)

They really, really, really need better training on how to deal with domestic abuse. Just understanding the risks, the trauma someone goes through, why it's not as simple as "just leave him" and that their nonchalance and lack of understanding of our fear keeps people from pressing charges. (female survivor, male partner, injuries requiring medical care, very afraid of her partner, police not contacted, believes it is a bad policy)

Police should not intervene in domestic violence situations without a counsellor present. ... Someone with a feminist perspective and counseling and trauma training should be present and assigned to support the survivor from the moment the police first become involved and until the survivor discharges. (survivor, someone else contacted police, male partner charged, mixed feelings about policy generally and in her case)

4. Police discretion

Some police and service providers suggested that because the range of domestic violence is broad and complex it is not always productively addressed through the mandatory charging policy and some level of discretion therefore should be allowed:

There needs to be a much better appreciation of the complexities and range of the dynamics in intimate partnerships. There are many cultural differences that are evolving, differing attitudes about human interactions where a single analysis and perspective no longer resonates as it might have in the past. There needs to be much better coordination and dialogue amongst all sectors. (female Partner Abuse Response (PAR) service provider, over 5 years of experience, mixed feelings about policy)

I do not believe that one rule can apply to every offence because it falls under "domestic violence" or "violence against women". There needs to be some discretion that can be applied that does not have such drastic consequences. A male that just stabbed his wife (aggravated assault) is treated the same as a male who slapped his wife. Both face conditions that they are not to see or contact the victim (appropriate in the aggravated assault but not the assault) and possibility the children if they saw the offence. ...This is a very flawed application. (male investigator, less than 10 years of experience, mixed feelings about policy)

It would be nice if there was some discretion allowed for nonviolent incidents... like mischief. Or some discretion for incidents that are extremely minor, like a heated argument that resulted in one partner pushing another. Officers feel like they have no control over the investigation because all they can see is if it's domestic they must charge. Even if that is not helpful for any of the people involved. (female police investigator, less than 10 years of experience, mixed feelings about policy)

Women themselves did not speak about police discretion, but rather about maintaining choice and control in relation to the policy.

I think when a woman is facing domestic violence, it is very important to respect her wishes, and to help her feel empowered within the legal system. Mandatory charging removes her ability to choose whether or not she wants to pursue a legal case, and whether or not it is in the best interests of safety for her, and her family. (survivor, very afraid of her partner, police not contacted, does not know if it is a good policy, knowing about the policy makes her less willing to contact police)

It feels like a very final decision with many outcomes that are out of my control and was not one that I ever considered. (survivor with female partner, police not contacted, doesn't know if it is a good policy, knowing about the policy makes her less willing to contact police)

5. Differential response

Several officers offered suggestions for integrating a degree of discretion into the policy while striving to maintain its intended aims through a differential response:

Allow discretion by police, but make it mandatory that police have to articulate and detail the reasons why benefits of not charging would outweigh the benefits of charging in a particular circumstance. (female police investigator, less than 10 years of experience, mixed feelings about policy)

A model of how to integrate an officer's discretion into the goal of rehabilitation is found in the Youth Criminal Justice Act. We must consider other options/programs, but if it is appropriate we can charge. If the deferral program (PARS, etc.) is unsuccessful, the charge will proceed.⁶ We make these decisions on an individual basis with feedback and involvement of family and community, with the goal of correcting behaviour without the lasting mark of a criminal record. We can do better for victims and families. We need the trust and support of our community partners to achieve this. (female patrol officer, less than 10 years of experience, bad policy)

Service providers also spoke about the need for a differential response to partner violence based on an assessment of risk:

[There is a] need for differentiated treatment programs based on good assessment and screening policies after arrest to facilitate both safety and rehabilitation where possible and incarceration where this is not deemed potentially helpful (female service provider, VAW sector, over 20 years of experience, bad policy)

At the same time, some felt that discretion based on a differential response opened up a new set of issues:

I think police need to have a bit more discretion in the calls where there wasn't anything more than a "push/shove" in the heat of the moment - but I also realize that this may also open a Pandora's Box. Mandatory charging was brought about for a few reasons - women were not disclosing for fear of retribution, abusers were not being charged appropriately or at all, some officers were not charging appropriately, thus leaving the women and children vulnerable to worse abuse for calling police - so, overall, I do think the mandatory charging is the best solution for current domestic violence incidents. (female police investigator, over 10 years of experience, mixed feelings about policy)

The justice system focus on criminal code incidents means that police are often more aware of physical violence than controlling abuse, as shown in these quotes:

⁶ Currently, PAR participants can be offered a conditional discharge if they plead guilty and fulfill court-ordered conditions.

Mandatory charging [should be enacted] only with the presence of physical evidence or credible witnesses, not necessarily in he-said she-said occurrences...(male patrol officer, less than 10 years of experience, mixed feelings about policy)

[There should be an option] for victim to not lay charges below the threshold of bodily harm. In situations where a crime has been committed and police believe could continue, charges should be laid. Non-violent offences e.g. theft, property damage, harassment should be at the discretion of the victim. (male police officer, less than 10 years of experience, bad policy)

The quote below illustrates how apparently 'minor' pushing and shoving to which police are called may not represent the full range of violence and abuse experienced by women and how the use of discretion by police focused on physical evidence or bodily harm, as mentioned by the officers above, could leave women in danger:

The physical violence didn't happen until a year before we separated... However there was always a lot of pushing and shoving and pointing his finger into my face or shoulder. I put up with 14 years of a manipulator. He put me down constantly. Insulted me. Stripped me of any self-worth I had. Numerous affairs. I didn't think the police could help. I lost myself. He broke me. It may not have been physical the entire time, but the mental and emotional abuse was horrible. Even now he has ruined any future relationship for me. I don't want to get close in case I allow any abuse. I still am trying to get 'me' back. Through counselling and learning to love myself again. (female survivor, male partner who inflicted physical injury, police not contacted, good policy, more willing to contact police knowing about policy)

6. More consistent application of the policy

Some women and service providers felt mandatory charges should be applied more consistently by police.

I think that mandatory charging would be a great thing IF it were properly enforced. But... it isn't. Police are extremely reluctant to charge under mandatory charging, and they STILL put the onus on the woman to charge her partner, and even then the police still don't like to be forced to charge someone. It is incredibly frustrating, a woman, reporting domestic violence, because it is still not recognized. (survivor, male partner not charged, doesn't know if it is a good/bad policy generally, good policy, poor enforcement in her case)

Anti-racism, anti-oppression training would help a lot! Ensure statements are taken from both/ all parties before an arrest is made. Train police to have a more subtle and gendered understanding of primary / dominant aggressor theories. Do not issue warrants for women who have fled the scene unless there is evidence of serious injury. Courts must make perpetrators accountable; in general, we need a better system of enforceable protection orders. (female service provider, VAW sector, over 20 years of experience, mixed feelings about policy)

While they are usually following the mandatory charging policy, there are glitches – e.g. sometimes they are not determining the predominant aggressor and women are charged when they are acting in self defense. There are also situations when the police are called and there are no charges laid when there seems to be enough evidence that a woman was

assaulted. (female service provider, Partner Assault Response outreach to female victims, over 20 years of experience, good policy)

7. Public education

Several participants recommended educating the public about the mandatory charging policy. Reasons for this included a possible deterrent effect on abusers, increased choice and control for women, and holding police accountable, among others. However, some survivors noted that they might not have called police if they had known about the policy.

Making the 911 call... put an end to his physical abuse by charging him...[but] I think if I had known he would be charged, regardless of my wishes, I may not have called. (survivor, male partner charged, good policy, good in her case)

Educating the public on mandatory charge policy. Many people do not know about it. It can be a preventative tool. ... the abuser believes that he can influence whether or not the victim will support charges/attend court. If they knew about the mandatory charge policy, this may affect behavior. (female police investigator, over 10 years of experience, good policy)

... More awareness of mandatory charging should be brought to the forefront as all institutions designed to "help" domestic violence survivors never disclose that information. (survivor, she was charged and not her male partner, mixed feelings about policy in general, bad policy in her case, less willing to report since knowing about policy)

The police did not lay charges on my partner and he continued to harass and stalk me. He would show up at my house banging on the door and screaming at me. He would follow me in the hallways at school and teachers had to be on the lookout for him whenever I was around. ... I wish that I was even informed about this policy. (survivor, very afraid of male partner, someone else contacted police, no charges laid, she believes it is a good policy and is more willing to call police knowing about it)

This research documents the complexities involved in criminal justice interventions in intimate partner violence. The following quote from a survivor sums up the adverse effects mandatory charging can have if police and other professionals are not skilled and do not work together:

I believe the right to press charges needs to stay with the woman. Only she knows what she can handle and what her needs are. In my experience the police, the legal system, and CAS are not equipped to adequately assist the woman through the process. Mandatory charging is a good idea (in an ideal world), but not realistic. It requires that all professionals involved be competent (having dealt at the very least with their own personal issues, not to mention their personal biases etc.) and in my experience, that is not the case. This then creates more problems for the woman. And if her right to press charges or not is taken away from her, then this puts her into an even worse position. At least if she presses charges herself and discovers that the professionals are making things worse, she can drop the charges. She isn't then stuck (hopefully) in a whirlwind of further trauma that was created by the professionals.

Acknowledgement

Sincere thanks to the women, service providers and police officers who volunteered to share their views and experiences, and our community partners for contributing their considerable expertise to the design of this research project.

Appendix: Methodology

In total, 293 women, 289 front-line service providers and 113 police officers participated in this study. Service providers and police completed online surveys and, although women were offered the option of being interviewed in person or by telephone, only one took advantage of this and the remainder participated online. Recruitment of study participants took place from December 2016 to March, 2017.

There were five criteria for women participating in the study: to be 18 years of age or older; to have experienced violence or abuse in an intimate relationship within the past 5 years while living in Ontario; to have been living as a woman at the time of the incident and at the time of completing the questionnaire; and to have all police investigation and court hearings related to the case completed. Selection criteria for service providers and police included having had direct experience working with women who were survivors of intimate partner violence in Ontario in the past 5 years. Ethics approval was granted from the University of Ottawa Research Ethics Board. Responses were collected anonymously to protect the identity of the respondents.

This study has limitations. Participants were not randomly selected; therefore, those who chose to participate are not necessarily representative of abused women, service providers and police officers in Ontario. The study was conducted in English and French and consequently the samples lack a level of diversity. The on-line format of the questionnaires and low participation of women in face-to-face or telephone interviews means that the study was biased in favour those with internet access and a relatively high level of literacy.

Nevertheless, the sample of survivors is diverse with respect to age, education, household income, English and French speakers, and location in Ontario. Eight women had female partners at the time of the abuse. Half had a physical or mental health disability or both; half of those with a mental health condition suffered from post-traumatic stress disorder. The sample of police officers contains a range of genders, positions and years of experience. Among the service providers who participated in the study, a wide range of agencies and years of experience are represented.

Demographic characteristics of the sample of women

WOMEN	Number	%
Age		
18-29	70	24
30-39	81	28
40-49	83	28
50+	56	19
No answer	3	1
Total	293	100
Gender		
Female	288	98
Male	0	0
Transgender	0	0
Two-spirited	0	0
Gender queer	0	0
Gender non-conforming	3	1
Other	0	0
No answer	2	1
Total	293	100
Ethnicity*		
Caucasian	255	92
Indigenous	23	13
African Canadian	6	2
South Asian	1	0
Latin American	7	2
Other	4	1
Total	293	100
Disability*		
None	150	51
Physical condition	58	20
Mental health condition	100	34
Don't know/no answer	15	5
Total	293	100
Sexual orientation		
Straight/heterosexual	261	89
Bisexual	13	4
Lesbian/gay/homosexual	5	2
Queer, pansexual, sexual	10	3
Prefer not to say	4	1
Total	293	100
Highest education at the time		
Primary or some secondary	18	6
High school diploma	41	14
Apprenticeship or trades certificate	7	2
Some college	24	8
College diploma or certificate	86	29
Some university	28	10
University degree	78	27
No answer	11	4
Total	293	100

Location in Ontario at the time		
South West, Central West and Hamilton/Niagara Regions (Sarnia, Chatham, Niagara, Brantford)	83	28
North East and Northern Regions (Timmins, Parry Sound, Manitoulin, Thunder Bay)	38	13
Toronto Region	30	10
Central East and Eastern Region (Simcoe County, Cobourg, Peterborough, Orillia, Belleville, Ottawa)	112	38
Other, don't remember, prefer not to say, no answer	30	10
Total	293	100
Urban/rural at the time*		
City	191	65
Town	48	16
Rural area	32	11
First Nations Reserve	3	1
Other or no answer	19	6
Total	293	100
Citizenship status at the time		
Citizen	273	93
Landed immigrant	7	2
Visa, visitor, no official status or no answer	12	4
Total	293	100
Language*		
English	257	88
French	48	16
Neither or no answer	2	1
Total	293	100
Monthly household income at the time		
Less than \$2,000 (Up to \$24,000 annually)	70	24
Between \$2,000 and \$3,000 (\$24,000 – \$36,000 annually)	43	15
Between \$3,000 and \$5,000 (\$36,000 – \$60,000 annually)	62	21
Over \$5,000 (\$60,000 + annually)	71	24
I don't know / I don't remember	15	5
Prefer not to say or no answer	32	11
Total	293	100

*Multiple responses were allowed for these questions

Demographic characteristics of the sample of police and service providers

POLICE			SERVICE PROVIDERS		
Position	Number	%	Sector	Number	%
Patrol officer	47	42	VAW Sector (shelter, counsellor, transitional support, sexual assault crisis centre)	186	64
Sergeant	4	4	PAR Working with charged women	30	10
Partner assault investigator or supervisor	51	45	PAR Outreach to women victims	23	8
Chief or commander	2	2	Child welfare (Children's Aid Society)	14	5
Other	9	8	Hospital based sexual violence response program	12	4
Total	113	100	Victim services	27	9
			Family counselling	2	1
			Corrections	6	2
			Aboriginal services	4	1
			Public Health or social services	17	6
			Mental health or addictions	10	4
			Other	10	4
			289	100	
Years working in policing			Years working in field		
2 years or less	12	11	2 years or less	35	12
3 to 5 years	13	12	3 to 5 years	52	18
6 to 10 years	17	15	6 to 10 years	51	18
11 to 20 years	36	32	11 to 20 years	88	30
More than 20 years	34	30	More than 20 years	63	22
No answer	1	1	No answer	0	0
Total	113	100	Total	289	100
Gender			Gender		
Female	65	58	Female	273	94
Male	41	36	Male	14	5
Two-spirited	2	2	Two-spirited	2	1
Gender non-conforming	0	0	Gender non-conforming	0	0
No answer	5	4	No answer	0	0
Total	113	100	Total	289	100
Ethnicity*	Number	%	Ethnicity*	Number	%
Caucasian	102	90	Caucasian	243	84
Indigenous	4	4	Indigenous	12	4
African Canadian	5	4	African Canadian	10	4
South Asian	2	2	South Asian	6	2
Other	3	3	Other	26	9
Total	113	100	Total	289	100

*Multiple responses allowed for this question