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**RECOMMENDATIONS FOR AMENDMENTS TO  
"E" DIVISION R.C.M.P. OPERATIONAL  
POLICIES PERTAINING TO RELATIONSHIP  
VIOLENCE AND THE PROCESSING OF  
FIREARMS APPLICATIONS**

GOVERNMENT  
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REPORT OF JOSIAH WOOD

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I. INTRODUCTION

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On 30 April 1996 Assistant Commissioner Dennis J. A. Brown of the Royal Canadian Mounted Police ("R.C.M.P.") appointed me to conduct independent reviews of the manner in which R.C.M.P. officers responded to and conducted their investigations of certain complaints that [redacted] and [redacted] made to the [redacted] R.C.M.P. Detachment [redacted] Detachment"). I have previously issued two reports which summarized my findings in respect to whether:

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- (1) The R.C.M.P. policies pertaining to relationship violence and criminal harassment or stalking were followed in respect to the [redacted] and [redacted] complaints received at [redacted] Detachment; and
- (2) The R.C.M.P. policies pertaining to the processing of Applications for Firearms Acquisition Certificates ("Applications for FACs") and other firearms permits were followed in respect to the various certificates and permits issued to [redacted] and [redacted]

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The first report entitled "Report Regarding the Complaints of [redacted] and the Issuance of Firearms Permits to [redacted]" was issued on 3 February 1997. On 19 March 1997, I issued the "Report Regarding the Complaints of [redacted] and the Issuance of Firearms Permit to [redacted]". Those reports identify certain deficiencies both in the investigations conducted in response to the complaints and in the relevant "E" Division operational policies relating to relationship violence, criminal harassment, and the processing of Applications for FACs and other firearms permits.

In addition to conducting the independent reviews, I was requested to provide a third report, reviewing "E" Division R.C.M.P. operational policies pertaining to relationships violence and those governing the processing of Applications for FACs and other firearms permits, with the objective of providing recommendations for their improvement. As part of that mandate, I was also asked to review the adequacy of R.C.M.P. training programs in respect to "E" Division's Violence in Relationships Policy and its Firearms Policy.

To ensure that the recommendations outlined in this Report are considered in the proper context, it is necessary that a number of preliminary observations be made regarding some of the factors I considered prior to making the recommendations.

Violence against women in relationships is an extremely serious problem in our society. Statistics Canada figures provide some insight into its scope, indicating that in Canada one in eight women is assaulted by her partner and that in 1989 and 1990, 48 percent of female homicides were committed by spouses or ex-partners. Those two statistics alone are momentous as to require no further comment.

Although the R.C.M.P. commissioned this Report as a direct result of the [redacted] and [redacted] tragedies, there is a danger associated with recommending policy changes in response to the occurrence of such terrible events. For example, although one could recommend policy changes which would have the effect of entirely removing any independent decision-making ability or discretion on the part of an officer investigating a complaint of relationship violence, including criminal harassment, or the suitability of a person to acquire a Firearms Acquisition Certificate ("FAC"), any decision to do so would be an unfortunate and misguided over-reaction. It is not possible to create policy, in response to a particular incident, which will ensure that a similar incident will not ever occur again. As the [redacted] tragedy illustrates, there is a level of madness against which no amount of policy will ever be effective. Creating inflexible policy designed to control all aspects of a police investigation would have the effect of imposing a standard on police officers which, in any practical sense, could never be met. Such a policy would only result in automatically exposing an investigating officer to unwarranted

criticism each time that his or her performance was assessed against the background of a particular investigation. Thus, in considering each of the recommendations discussed in the Report, I have been guided by my conclusion that the community expects the R.C.M.P. to implement reasonable and workable policies by which its officers will be guided in the investigation of the serious and violent criminal offences which comprise relationship violence. As a result, these recommendations are designed to provide investigating officers and supervisory personnel with information and advice regarding the dynamics of relationship violence, including criminal harassment, and to provide sufficient guidance to enable them to exercise properly their discretion when investigating such complaints and when assessing the suitability of an applicant for a FAC or firearms permit.

As will become obvious to those reviewing this Report, if implemented these recommendations will pose a significant challenge to current "E" Division resources. At the present time, investigative resources are stretched to the limit. In the result, most if not all detachments are already required to prioritise their investigations of criminal complaints. Like most policing agencies in Canada, the experience of "E" Division in recent years has been that increasing public demands for new enforcement and investigative initiatives must be met in the context of shrinking budgetary resources.

A number of my recommendations will require the re-allocation of police personnel and financial resources. Many will require the provision of additional personnel and financial resources if they are to be implemented effectively. I am of the view that it would be unreasonable to expect the R.C.M.P. to implement any such recommendations without first discussing and reaching agreement with the Attorney General in respect to both the re-ordering of current resources and the provision of additional resources. Thus, my recommendations are contingent on the necessary implementation resources being made available to "E" Division.

II. SCOPE OF THE REVIEW

During the course of my review, I sought and received valuable assistance in the form of information and advice on the complex issues surrounding the investigation of relationship violence, including criminal harassment complaints, from representatives of the R.C.M.P., the Vancouver City Police, the Ministry of Attorney General, the Ministry of Women's Equality and a number of interested special interest groups. As a result, I had the benefit of a variety of perspectives from those working with victims of these forms of violence. I am grateful to all who shared their experiences with me and for their thoughtful comments on the many different elements which must be considered in a review of this nature.

In addition to the materials identified in the [redacted] and [redacted], the materials identified in Appendix A to this Report were examined and the persons identified in Appendix B were interviewed during the preparation of this Report.

This review was ordered in the context of my review and findings in the Chaha and Velisek inquiries. As such, a brief review of the facts of those tragedies, and of my findings from the [redacted] and [redacted] Reports, will help provide a factual basis for the recommendations that follow.

THE INCIDENT

On 11 December 1993, [redacted] applied for a FAC at [redacted] R.C.M.P. Detachment ([redacted] Detachment"). He was subsequently issued a FAC on 8 February 1994.

[redacted] and [redacted] were married in April of 1994. They separated on 25 December 1994 when she left the matrimonial home in [redacted] and returned to [redacted] to live with her parents.

On 6 January 1995, [redacted] complained to the [redacted] Detachment that during her marriage [redacted] had repeatedly assaulted and threatened her. These incidents had all occurred at the couple's residence in [redacted], B.C. She told the investigating officer that there were no witnesses to any of these incidents, that she was never bruised or injured and that she had never sought medical attention as a result of any such incident. She did not provide any information to indicate that [redacted] was harassing her in [redacted]. At no time on 6 January 1995, did she inform the police that [redacted] had threatened to kill her. She specifically refused a request to provide a formal written statement. In addition, she specifically requested that no investigation be conducted, that no contact be made with [redacted] and that no charges be brought against him.

At the time [redacted] made her initial complaint to [redacted] Detachment she did not reveal any of the 17 allegations she included in her Petition for Divorce ("Petition"), filed three days later in British Columbia Supreme Court, including allegations that [redacted] had: pushed her up against a wall with sufficient force to knock her glasses off; thrown a chair at her barely missing her head; attempted to strangle her by grabbing her throat; on more than one occasion had kicked her or kicked at her when he left for work; dragged her across the living room in a manner that resulted in her having rug burns to her face and body; threatened to kill her if she ever told anyone what was going on in their marriage; and threatened to kill her if she answered the telephone. [redacted] also tried to isolate her from other people, especially from members of her family. In addition, he intimidated her with threats about buying a handgun, by going into a store in [redacted] B.C. and looking at handguns, and by informing her that he was going to check in [redacted] B.C. for a handgun.

Between 22 February 1995 and 8 June 1995, [redacted] applied to [redacted] Detachment for two Restricted Weapon Registration Certificates ("Registration Certificates") for two weapons, one a semi-automatic handgun and the other a revolver. The Registration Certificates were issued on 20 March 1995 and 8 June 1995, respectively. [redacted] also applied for and received Permits to Transport for both of these weapons. In addition, he also applied



for and was granted a Permit to Carry Restricted Weapon ("Permit to Carry"), which was issued on 10 April 1995.

Following 6 January 1995, [redacted] made two further complaints to [redacted] Detachment. On 16 April 1995, she complained that she was receiving nuisance telephone calls from [redacted]. The investigating officer contacted [redacted] who denied making the telephone calls. During the course of this investigation, the investigating officer made a number of unsuccessful attempts to persuade [redacted] to support a criminal investigation and charges against [redacted] in respect of the 6 January 1995 complaint.

On 18 or 19 January 1996, [redacted] went with her mother to the [redacted] Detachment and showed handwritten notes to the investigating officer detailing an event which had occurred at a recent Examination for Discovery in her divorce proceedings. Unfortunately, she did not allow the officer to make copies of the notes and she took them with her when she left [redacted] Detachment. Sometime after 19 January 1996, [redacted] added substantially to the notes and delivered them to someone at the [redacted] Detachment. The notes contained much of the information which she had included in her Petition, including threats to kill her. Although the notes were placed in the investigative file, which by then was concluded, the investigating officer was never informed that they had been received.

On 16 February 1996, [redacted] sister, complained to the [redacted] Police Department that she had received telephone death threats from [redacted].

From my inquiries, it did not appear that the information in the [redacted] Police Department file was ever provided directly to [redacted] Detachment.

On 5 April 1996, [redacted] shot eleven members of [redacted] family in [redacted] and eight others were killed; two of those shot survived.

committed suicide soon after by shooting himself.

In the Report I found that the officers at Detachment who investigated complaints generally complied with the applicable provisions of the R.C.M.P. Headquarters and Division Policies and the policy issued by the Attorney General in 1993 entitled "Violence Against Women in Relationships Policy" ("VAWIR Policy"). In addition, I found that there was general compliance with the relevant R.C.M.P. Policies pertaining to the processing, approving and issuing of the FAC and the various firearms permits to . . . . I have qualified the level of compliance as a general compliance. As I discussed at length in both the and Reports, the assessment of compliance with the Headquarters and Division Policies pertaining to relationship violence required a consideration of the range of interpretation that could be given to the application of those Policies in circumstances for which they were not obviously intended. The Headquarters, Division and VAWIR Policies are focused on the investigation of complaints of recent or ongoing violence, circumstances which were not present in the complaints that made to Detachment. There were a number of instances of non-compliance with certain provisions of the Policies. For example, PIRS computer searches were not conducted on 6 January 1995 for information regarding . . . . Certain investigational steps were not recorded in the investigation file in accordance with the policy requirement for a complete investigation. . . . notes, prepared in January and February of 1996, were not provided to the investigating officer or to her supervisor in accordance with document handling policies. Applications to Register were not properly completed and certain "pertinent" information pertaining to those applications was not forwarded to the Commissioner in accordance with the policy requirements in the National Firearms Manual.

THE INCIDENT

acquired a FAC in 1980 which expired in 1985. From at least 1979 he is known to have owned various long barrelled rifles and shotguns.

relationship with \_\_\_\_\_ commenced in April 1994. It was not characterized by any physical violence prior to its termination in September 1995. However, commencing almost immediately after she ended the relationship, and continuing for approximately two months \_\_\_\_\_ engaged in a persistent pattern of harassment: he made nuisance telephone calls to \_\_\_\_\_ and her daughter; he contacted \_\_\_\_\_ in person at her workplace and elsewhere; he followed her in his car and it is believed that he vandalized her vehicle on three separate occasions.

\_\_\_\_\_ contacted \_\_\_\_\_ Detachment on at least 14 separate occasions either to complain about various incidents of vandalism and harassment or to discuss the progress of the investigation of her complaints. Although she provided the investigating officers with detailed chronologies of these various incidents, virtually no investigation was conducted. The investigating officers regarded \_\_\_\_\_'s complaints as isolated reports of property damage and reports of nuisance telephone calls from an ex-boyfriend.

On 22 November 1995 \_\_\_\_\_ shot \_\_\_\_\_ twice with a sawed-off shotgun. \_\_\_\_\_ survived but sustained serious and permanent physical injuries. \_\_\_\_\_ committed suicide by shooting himself immediately after attempting to kill \_\_\_\_\_.

In the \_\_\_\_\_ Report, I determined that there was virtually no compliance with the various provisions of the applicable R.C.M.P. Policies or with the VAWIR Policy. Neither of the officers involved with the investigation of \_\_\_\_\_'s series of complaints initially recognized that they were characteristic of relationship violence in the form of criminal harassment or stalking. The investigating officers failed to record many of the incidents about which \_\_\_\_\_ complained, even though one of the officers had initially instructed \_\_\_\_\_ to keep a log of any suspicious incidents. No effort was made to conduct any investigation of \_\_\_\_\_ complaints, notwithstanding that one of the investigating officers tentatively identified her complaints as "possibly" constituting the offence of criminal harassment some 19 days before she was shot.

The \_\_\_\_\_ and \_\_\_\_\_ : Incidents are both tragic reminders of the devastating effect of unchecked violence against women in our society. They are illustrative of two very real difficulties that the R.C.M.P., and police forces generally, have in providing an effective response to this serious criminal problem. The first, as \_\_\_\_\_'s complaint of 6 January 1995 demonstrates, is determining the appropriate police response to a complaint from a reluctant victim of relationship violence where there is no recent or ongoing violence, no physical evidence, no witnesses and a request from the victim that the complaint be kept confidential. The second, as exemplified in the investigation of \_\_\_\_\_'s complaints, is changing the outdated attitudes which some police officers have to complaints of relationship violence, particularly when that violence takes the form of criminal harassment, and ensuring that those officers are provided with adequate education, training and information to permit them to appreciate the dynamics of relationship violence, to recognize the indicia of violent or abusive relationships and to appreciate that, as a serious criminal offence, relationship violence must be fully investigated.

During my review of the investigations of the \_\_\_\_\_ and \_\_\_\_\_ complaints, I identified the following significant deficiencies in "E" Division Policies:

1. The Division's "Violence in Relationships" Policy, is directed at complaints of recent or ongoing violence, and as such provides little guidance for the proper exercise of an officer's discretion, at both the investigative and the Report to Crown Counsel ("RTCC") stages, with respect to complaints which do not require an immediate police response, made by a victim who is unable to cooperate with either an investigation or a subsequent prosecution;
2. There is no significant Division Policy in respect to the investigation of criminal harassment complaints;
3. The Attorney General's "Violence Against Women in Relationships" Policy is classified only as a guideline to the Division "Violence in Relationships" Policy,

with the result that certain of its requirements, which are essential to a complete investigation of a relationship violence complaint, may be overlooked by officers investigating such complaints;

4. The policy guiding the screening of applicants for FACs and various firearms permits is insufficient to ensure that only suitable applicants obtain such permits.

This Report, in accordance with the terms of my mandate, is restricted to a review of and comment on the applicable Division Policies and does not comment on possible changes to Headquarters Policies.

Part III of this Report addresses the recommendations for changes to the "E" Division Policy dealing with relationship violence and criminal harassment.

Part IV of the Report addresses the recommendations for changes to the "E" Division Policy pertaining to FACs and firearms permits.

Part V of the Report addresses training issues.

III. RECOMMENDATIONS FOR CHANGES TO "E" DIVISION POLICY GOVERNING THE INVESTIGATION OF RELATIONSHIP VIOLENCE COMPLAINTS

INTRODUCTION

The R.C.M.P. has written policies for all operational matters and investigations, including procedures for the investigation of reports of relationship violence, assaults, criminal harassment, and for the processing of Applications for FACs and various firearms applications and permits. These policies are organized on the basis of national policy ("Headquarters Policy"), provincial or division policy ("Division Policy") and local or detachment policy ("Local Policy"). The Headquarters Policy, written and published at the R.C.M.P. Headquarters in Ottawa, provides general guidance for all R.C.M.P. officers regardless of the province in which they work. The Division Policy is written and published in each of the R.C.M.P. Divisions and it is intended to augment the Headquarters Policy so as to provide guidance consistent with provincial law, the direction of the Attorney General and provincial policing priorities or needs. Local Policies are generated by individual detachments in order to meet purely local policing requirements.

The R.C.M.P. policies pertaining to the investigation of relationship violence are outlined in Headquarters Policy, in sections entitled "Spousal Assault", dated 9 July 1993, ("Spousal Assault Policy") and "Stalking - Criminal Harassment", dated 4 May 1995, ("Stalking Policy") and in Division Policy, in a section entitled "Violence In Relationships", dated 31 January 1995, ("Division VIR Policy"), which includes, as an appendix, the VAWIR policy issued by the Attorney General in 1993. The VAWIR Policy was updated in August 1996 ("Amended VAWIR Policy"), however, the updated version is not currently included in the appendix to the Division VIR Policy. The Division Policy entitled "Criminal Harassment - Stalking - Nuisance or Obscene Telephone Calls" ("Nuisance Telephone Policy") provides a cross reference to the Stalking Policy, but does not itself contain any policy relevant to this Report. Neither                   nor                   Detachments have any Local Policy pertaining to relationship violence or stalking.

A directive from the Commissioner of the R.C.M.P. ("Commissioner"), located at the beginning of the Headquarters Policy, dated 1 June 1988, provides:

Each member shall observe and comply with the policy and procedural directives in this manual, and is expected to interpret them reasonably and intelligently in the best interest of the RCMP.

A. "E" DIVISION VIR POLICY TO BE AMENDED TO INCLUDE SPECIFIC POLICY RELATING TO COMPLAINTS OF HISTORICAL INSTANCES OF ABUSE REPORTED BY UNCOOPERATIVE COMPLAINANTS

a) Introduction

Subject to certain specific deficiencies, which will be discussed later, the existing Division VIR Policy provides a sufficient framework of guidance within which properly trained officers can respond to, investigate and channel to prosecution those cases of relationship violence in which there is both an obvious and immediate need for police intervention and a victim who is willing to cooperate with the resulting investigation. However, the effective guidance provided by the Division VIR Policy diminishes rapidly when the relationship violence complaint relates to one or more past offences, which do not require immediate police intervention, and the complainant finds herself unable to cooperate with the investigation.

I described this problem in some detail at pp. 41 through 43 of the Report:

First, the Spousal Assault, Division VIR and VAWIR Policies are written in language that focuses on recent or ongoing violence in a relationship, where immediate intervention and assistance of the police is necessary in order to ensure the victim's safety by preserving the peace and preventing the threat of further violence against the victim. Thus, for example, they speak of the high risk of violence to police officers responding to violence in relationship "calls", of the need to ensure the victim's safety by separating the victim from the abuser, of making efforts to locate an offender who has left the "scene" and of arresting the abuser when there is reason to think there may be a continuation of violence.

Second, while the Spousal Assault, Division VIR and VAWIR Policies acknowledge the potential that a relationship abuse victim may not agree to cooperate with either an investigation or a prosecution, they do so in the context of recent or ongoing violence in a relationship, where it is anticipated that other sources of evidence will be available, either as a consequence of the immediate response of members to an ongoing offence, or as a result of an active investigation that can immediately follow upon such an offence.

In the result, the Policies do not provide any specific direction in respect of those violence in relationships complaints where the complaint does not involve an immediate response to a violent act or acts, where the cycle of violence characteristic in such cases appears to have been broken, so that there is no imminent threat of continuing violence, and where the complainant is unwilling to cooperate with any investigation.

For the police officer who looks to these Policies for guidance in the conduct of a violence in relationships investigation, the situation is further complicated by the manner in which the Division VIR Policy and the VAWIR Policies have been drafted. Although it is clear that the intent of both Policies, with their proactive arrest and charge provisions, is to limit significantly a police officer's discretion in respect of the conduct of investigations and the recommendation of criminal charges, it is none the less clear that some residual discretion must and does exist. However, the extent or limit of that discretion is uncertain, even for those cases involving ongoing acts of violence. This uncertainty is best demonstrated by the policy provisions dealing with a police officer's discretion regarding recommendations to Crown Counsel for criminal charges.

...

For all of the foregoing reasons, the Spousal Assault, Division VIR and VAWIR Policies provide little practical guidance for a police officer responding to the type of complaint that                      made to Constable                      on 6 January 1995, in circumstances where all of the following are present; the relationship had ended, the cycle of violence had apparently been broken, the victim had refused to provide a written statement and the victim was insistent that no investigation be conducted and no charges be brought.

In this unusual situation, and like situations, a police officer is forced to rely on his or her ability to interpret and apply the Spousal Assault, Division VIR and VAWIR Policies to circumstances for which they were not obviously intended. That decision making process will itself be guided by the police officer's experience, education, training and judgment and by the degree of supervision available at the time investigative decisions have to be made.



Viewed objectively, the crux of the problem is straightforward enough. Division VIR Policy requires that an investigating officer conduct a "complete investigation" whenever a relationship violence complaint is either responded to or received. When the victim agrees to cooperate with such an investigation, the extent of that mandate is unambiguous. But when, for a variety of complex reasons, a complainant feels she cannot cooperate with or facilitate a complete investigation into a complaint of past violence, and she requests that her complaint be received in confidence in the sense that the suspect will not be told of her complaint, that no investigation will be conducted and that no charges will be laid, neither the Division VIR Policy nor the Amended VAWIR Policy provide any guidance to an investigating officer who is then faced with the responsibility of deciding whether he or she is required to conduct a complete investigation.

first complaint on 6 January 1995, and complaints to the Detachment on 6 and 20 October 1995, regarding vandalism to her car, were designated as "for information only" complaints. This is a term that officers use to record a complaint on which no further investigation is contemplated or undertaken, either as a result of a request from the complainant that the information received remain confidential and no investigation be conducted, or as a result of the officer's initial assessment that any investigation will not result in a charge or a conviction.

Division VIR Policy makes no mention of "for information only" complaints, notwithstanding that there exists a widespread practice among officers of concluding investigative files on that basis.

b) Discussion

It is useful to begin by clarifying what is meant by an incomplete investigation in the context of this discussion. In addition to all of the usual components of a criminal investigation, and the special requirements found in the Division VIR Policy, a complete investigation in a relationship violence complaint must necessarily include taking a detailed

written statement from the victim and interviewing the suspect with the objective of obtaining a statement.

It is a notorious fact that many women who are victims of violence in a relationship find it impossible either to complain to the police when they are abused or to cooperate with a subsequent criminal investigation when that abuse finally comes to the attention of the police. All of the available research on the subject confirms that there are a host of complex reasons for this phenomena, many if not most of which are related to the power imbalance that characterizes abusive relationships and leaves the woman victim convinced that she must suffer in silence. Such victims frequently feel shame or guilt and blame themselves for what they perceive to be their failure in making the relationship a success. Many mistakenly believe that the abuse will stop, if only they try harder and become more compliant. All of these, and many more, complicating factors explain why the average woman in a violent relationship will suffer abuse as many as 35 times before making her first complaint to the police. It also explains why, when the courage to disclose the abuse to the police is finally mustered, many women ask that the suspect not be informed of the fact they have complained, that no investigation be conducted and that no charges be laid. Where such a "confidentiality" request is made it amounts to a request that the investigating officer not conduct a complete investigation.

Two questions necessarily arise. The first is whether an investigating officer should have any discretion not to conduct a complete investigation. The second is, if such a discretion should be available, how and under what circumstances should it be exercised.

- (i) **Should an investigating officer have a discretion not to conduct a "complete investigation"**

Neither the Division VIR nor the Amended VAWIR Policy acknowledge any such discretion. Indeed, when both Policies are narrowly construed, they mandate a complete investigation in each and every relationship violence case which comes to the attention of the

police. Thus, if those Policies are strictly adhered to, there is no discretion in an investigating officer to accept a complainant's request not to disclose her complaint to the suspect, a direction which, if followed, will necessarily result in an incomplete investigation.

An inflexible policy, which requires investigating officers to conduct a complete investigation in each and every relationship violence case, resolves any dilemma which they may otherwise encounter when faced with a reluctant/hesitant complainant. Such a policy would result in all relationship violence cases being investigated in precisely the same way. Irrespective of the wishes or demands of the complainant, the suspect would be interviewed and provided the opportunity to make a statement whether it be inculpatory or exculpatory. A complainant who is reluctant to give a detailed statement to the investigator cannot be forced to do so. However, once the opportunity to give a statement has been provided to both the complainant and the suspect, the investigating officer's duty to conduct a complete investigation has been discharged whether or not either choose to respond to that opportunity.

While such a policy would make life much simpler for police officers investigating relationship violence cases, there are strong arguments to be advanced in favour of an investigative policy which provides for a more flexible response to a complainant who desires to make a "for information only" complaint to the police. I have already alluded to the difficulties which all women in violent relationships encounter. For the reasons already described, many find it difficult to bring their abuse to the attention of the authorities. When they eventually find themselves able to take that initial step, they are full of self-doubt and uncertainty. It may take some time, much support and assistance, and considerable counselling by those skilled in such matters to persuade them to take the next step. In the meantime, if the cycle of violence is to be broken, it is important that they be encouraged to take the first step by initially disclosing to the police the nature of the abusive relationship they are in and the circumstances of the abuse which they have suffered. Well informed people, who have considerable experience in dealing with such matters, argue that confidentiality should be accorded to such complaints if that is the only means by which the complainants can be persuaded to come forward and initiate the process by which the cycle of violence will

eventually be broken. The alternative, they say, would be to discourage that initial disclosure, thus escalating the risk that the victim will suffer further and greater harm in the future. There is a strong sense among such experts that the process by which women who are victims of abuse are empowered to take charge of their destiny must unfold according to their own timetable.

The necessity for a flexible enforcement policy is further justified in cases where the victim, although reluctant to resolve the relationship violence through the criminal justice system, nonetheless wishes to obtain specialized counselling on a confidential basis. Since the various provincial and federal programs which provide funding for such counselling require the victim to provide a police file number evidencing that she has complained about the relationship violence, a requirement for a complete investigation in all cases, would, in essence, disentitle a women who requires such funding from seeking a resolution to the relationship violence through the method of her choosing. In the view of some experts, such a result cannot be seen to promote the empowerment of victims of relationship violence.

Another argument frequently advanced in support of a flexible investigative policy, which permits complaints of relationship violence to be received on a confidential basis, is that many women fear the risk of further, perhaps even worse, violence will be escalated if, for the reasons already described, they find it impossible to leave the relationship they are in after the suspect has been confronted with their allegations of abuse. If a woman is not yet ready to take the difficult step that must be taken to break the cycle of relationship violence, by cooperating with the prosecution, confronting the suspect with knowledge that she has complained to the police is not likely to deter his abusive tendencies when no consequences in the form of legal sanctions can result from that complaint. Indeed, in such cases, the apparent impotence of the criminal justice system is more likely to encourage him on to new heights of vindictive violence.

On the other side of the debate over this difficult issue are those who argue that any discretion not to conduct a complete investigation in relationship violence cases will be too easily exercised by police officers struggling with constantly increasing investigative demands.

The result will be to diminish the force and effect of the proactive investigative and prosecution policies mandated by the Ministry of the Attorney General.

It is also argued that taking a relationship violence complaint "for information only" cannot be justified in light of the dynamics of that form of violence. Abusive relationships are not, generally speaking, characterized by isolated acts of violence. Research demonstrates that violence in such relationships is recurring and follows a recognized pattern including an initial phase of tension building, followed by a violent outburst, followed by a resolution phase during which the abuser will manipulate the victim to forgive and forget. Research also demonstrates that frequently the level of violence in such a relationship, or its potential, increases with the passage of time.

There is a further concern that emerges when police officers are given a discretion not to conduct a complete investigation. The exercise of a discretion involves the discreet exercise of judgment based upon experience and the facts known at the time. The underlying assumption which justifies the existence of a discretion is that its proper exercise will lead to a predictable outcome. But there is nothing more volatile, and in that sense more unpredictable, than the potential for violence in an abusive relationship. Thus no matter how carefully a discretion not to conduct a complete investigation is exercised, there are bound to be instances where tragedies will occur. In such cases, the probability is that the investigating officer(s) involved will unfairly be held accountable, at least in the mind of the public, for consequences that became inevitable the moment it was decided an investigative discretion should exist.

After anxious reflection, and notwithstanding cogent arguments to the contrary, I have reached the conclusion that a discretion not to conduct a complete investigation should be available to investigating officers in relationship violence cases in vary narrow and limited circumstances. The wisdom of those who have experience in these matters has persuaded me that there will be cases where alerting the suspect to the fact that his abuse has been reported to the police by a complainant, who finds herself unable to cooperate with the prosecution, will significantly increase the risk of harm to that complainant in circumstances where the

investigating officer is powerless to take any action that will ensure her safety. Thus, while it would be much easier, from the perspective of the R.C.M.P., if there was a single policy applicable to all relationship violence investigations, I am persuaded that, from the perspective of the victims of such violence, there must be reserved to the investigating officer a narrow discretion to accept, in certain cases, instructions to respect the confidentiality of such complaints.

(ii) The parameters of the discretion

The first observation which must be made is that the discretion which does exist is the discretion of the investigating officer and not that of the complainant. A request for confidentiality does not and can not automatically require compliance on the part of the investigating officer. Before such requests can be granted, the investigating officer must be satisfied that there are good and sufficient reasons for not conducting what would otherwise be a complete investigation. This must be so because, quite apart from the explicit provisions in the Division VIR Policy and Amended VAWIR Policy, it is the duty of all peace officers to investigate allegations of criminal conduct which are brought to their attention, unless there are sound policy reasons why an investigation should not take place. In all cases it must be for the officer on whom that duty is imposed to decide whether a policy justification for not conducting an investigation exists. In short, the victim's wishes alone cannot control the scope of any criminal investigation.

That said, I am of the view that an investigating officer should have the discretion to accept an information only complaint of relationship violence when the complainant indicates that she will not cooperate with an investigation or prosecution, when there is no evidence other than that of the complainant on which to found a charge, and when the complainant requests that the suspect not be told or notified of her complaint on the ground that she fears she will be at greater risk of violence from him if he learns of her disclosure.