

# The Family Violence Court of Winnipeg

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*E. Jane Ursel\**

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## I. OVERVIEW OF EVENTS

ON SEPTEMBER 17, 1990 the Family Violence Court (FVC) in Winnipeg began operation. The court is the first of its kind in North America. It handles first appearances, remands, guilty pleas and trials for spouse abuse, child abuse and elder abuse cases. In the words of the Justice Department, two major benefits were anticipated in the implementation of the specialized Family Violence Court:<sup>1</sup>

First, it is expected that cases can be dealt with expeditiously by having one court, which will ultimately have more control over remands and delays in the court case. The court will work to have these cases handled in one to three months. The ability to offer earlier intervention is seen as important in providing treatment programs for offenders. A second major benefit of the separate court is that Provincial Court Judges and Crown Attorneys will have specialization in handling cases of violence against spouses, children and the elderly. An understanding of the unique issues and dynamics involved in each of these three offenses is viewed as critical in encouraging victims to participate in the system and feel that it is working on their behalf. The Family Violence Court will be an integrated one and less disruptive of the family overall.

### **A. Background:**

The move across Canada since 1983 toward the criminalization of wife abuse has resulted in substantial increases in charging rates at the police level and a dramatic increase in court time directed to these cases.<sup>2</sup> The increased time and attention of the courts in attending to wife abuse cases both reflects and generates increased interest within the community in legal interventions in family violence cases. This increased interest has led to increased scrutiny of the criminal justice process and substantial criticism of the police and the judiciary.

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\* Department of Sociology, University of Manitoba, and Principal Investigator, Family Violence Court Implementation Committee.

<sup>1</sup> Manitoba Department of Justice, July 1990.

<sup>2</sup> See J. Ursel, "Ensuring Systemic Change in the Criminal Justice System: The Example of Wife Abuse Policies in Manitoba" in A. Esau, ed., (1991) *Manitoba Law Annual 1989-90* 206; J. Ursel and D. Farough, "The Legal and Public Response to the New Wife Abuse Directive in Manitoba" (1986) 28 *Can. J. Crim.* 171; P. Jaffee *et al.*, "The Impact of Police Charges in Incidents of Wife Abuse" (1986) 1 *J. Fam. Violence* 37.

Critics of the courts cite discrepancies and inconsistencies in sentencing, length of time involved in court cases and insensitivity to the needs of victims as primary concerns.

On March 9, 1990, at a regular meeting of an interdepartmental-interagency working group on family violence, it was suggested that a specialized court would assist in responding to many of the concerns and criticisms of the existing system for processing wife abuse cases. It was further remarked that there was a strong political will, expressed by the Minister of Justice, at the March 8th Person's Day celebration, to develop more effective measures for dealing with all cases of family violence. Upon discussion it was decided that a specialized court was an idea "whose moment had come;" that such an initiative would be both effective and achievable and a committee of government officials was formed to look into the matter. Within a few weeks of the March 9th meeting, a Court Implementation Committee was formed with representation from the Provincial Judges Court, the Department of Justice, the Women's Directorate and the Department of Family Services. The Committee undertook informal consultations with representatives from government victims programs while the Research and Evaluation Branch of the Department of Justice conducted a feasibility study.

Following the positive results of the feasibility study, a consultation with the broader community of service deliverers was organized. On June 28, 1990, the Court Implementation Committee, The Minister of Justice and the Minister of the Status of Women met with representatives from approximately thirty Winnipeg agencies to outline the concept of a specialized Family Violence Court and to solicit advice and ideas about its implementation. The response of the community of service deliverers was very positive and on the basis of their support it was decided to proceed with the plan for implementation in September of 1990.

### **B. Court Implementation Committee**

From its inception the Court Implementation Committee perceived itself as involved in a process of major systemic change. While its primary mandate was to ensure the smooth functioning of the specialized court in Winnipeg, the Committee appreciated that change in one part of the system would put pressure on and provoke change in other parts of the system. As a result the Committee has undertaken the following four responsibilities:

1. To ensure the smooth operation of the specialized court;

2. To ensure that the court is understood and accessible to the community at large and the specific community of service providers;
3. To monitor the impact of the court on other system components, as well as to identify to the appropriate Ministries points of mounting pressure;
4. To facilitate the adoption or adaptation of the Family Violence Court model to communities outside of Winnipeg and to other jurisdictions.

### *1. Implementation*

The original plan for the Family Violence Court was to allocate a single Court Room (403) five days a week for trial cases. (Monday and Tuesday for wife abuse and elder abuse and Wednesday through Friday for child abuse.) In addition, Court Room 404 was to be used Monday mornings for docket court. Thus the allocated court time was five hours, five days a week for trial court and three hours a week for docket, for a total of 28 hours a week. However, within the first month and a half of opening the specialized court, the heavy volume of cases made it evident that court time would need to be extended. Docket court was becoming swamped as it attempted to handle an increasing volume of first appearances, as well as remands and cases returning for sentencing. For example, on the first day of Family Violence Court there were 11 cases on the docket. On October 29 there were 63 cases and by November 19 the number had risen to 98.

An extension of court time was necessary to reduce the pressure on docket court and also increase the time available for trials. To respond to the pressures on docket court, three screening courts were introduced on November 1st to take over most remands, provide a mechanism to minimize unnecessary remands and delays and ensure a trial date be set within three weeks of the hearing within screening court. To handle the backlog of trial cases an additional court room (409) was added in December 1991. As a result of these extensions, the actual court time expended on family violence cases is now 52 hours per week. In addition to the original 28 hours per week, there is an additional minimum of nine hours of screening court per week and an average of 15 hours in room 409 for trials. With this extension the Family Violence Court has been able to keep up with the heavy volume of cases and still achieve the goal of processing a case within three months.

## ALLOCATION OF COURT TIME

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5 hours	5 days a week for the original trial court (Rm. 403)	=	25 hours
3 hours	1 day a week for docket court (Rm. 404)	=	3 hours
5 hours	3 days a week for additional trials (Rm. 409)	=	15 hours
3 hours	3 days a week for screening court (Rm. 302)	=	9 hours
			<u>52 hours</u>

In order to keep up with the growing volume of cases, the feedback within the system among the key actors must be very rapid. In this regard specialization has been extremely effective. While the Court Implementation Committee meets monthly to iron out the bigger wrinkles and to plan for future developments, key personnel are in contact on a regular (often daily) basis to keep the system on top of the case load. The very good communication and cooperation between the Chief Judge, the Court Coordinator and the Crown Attorney team has been critical to the rapid adjustment of the courts and court schedules to respond to the volume increase.

While the court itself is specialized, its personnel have further specialized duties within the Family Violence Court. To provide consistency throughout the three types of courts (docket, screening and trial), the members of the crown attorney team take turns concentrating on docket or screening on a monthly basis, while they divide the rest of their time in trial court. The judges specialize, with one judge primarily responsible for docket and the rest of the judges divided between child abuse and wife/elder abuse. The research team consisting of a director and research assistants has also specialized. Three staff persons are primarily responsible for docket and screening courts and keeping an active file on the location of each case within the system. Another staff person is concentrated on monitoring and one staff person concentrates on tracking and data entry. Finally, the allocation of a specific support staff person to assist the crown attorneys and the research team and coordinate the files and the flow of information has been absolutely critical to the smooth operation of the system to date.

## 2. *Community Liaison*

The Committee was of the opinion that more than good administration was required to facilitate the success of the new court. An important measure of success for the Court is the degree to which it is understood and accessible to the community at large and the specific community of service providers and service consumers. The first step taken to create a court responsive to the needs of the Community was

the consultation meeting with agencies prior to the opening of the court to get their input into the design of the report. The second activity undertaken by the Committee was a Court Orientation day for family violence service deliverers. Twenty agencies that provide services to victims of family violence were contacted and invited to attend court. They were asked to select one of two days (March 21 and March 22, 1991). The orientation included a briefing before court conducted by a staff member of the Women's Advocacy Program, attendance at a trial and at screening court followed by a debriefing with the crown attorney who leads the family violence prosecutorial team. The sessions were well attended and the response from participants was very enthusiastic.

At the original meeting with service agencies in June of 1990, representatives requested that a meeting be held after the first six months of the courts opening so they could assess and comment on preliminary outcomes. A report was prepared by the director of the research project which was an abbreviated version of the second quarterly report and a meeting was scheduled for May 23, 1991. The reports were mailed out to the agencies and Members of the Court Implementation Committee met with service providers to discuss the research findings as well as to present a summary of their first six months experience with the court. Members of the prosecutorial team and the judiciary fielded questions about their work from representatives of the 15 or more agencies in attendance. The response to the court and the research findings of the first six month's of operation was positive. However, questions were raised about the ability of existing services, particularly batterer's treatment groups, to handle the increased volume. This remains an ongoing challenge to the Corrections Branch of the Department of Justice and in the absence of additional resources will mean some shifts in priorities and reassignments of case loads.

In addition to working closely with the community of service providers, the committee was concerned about the level of understanding and support for the specialized court that existed in the general population. As a result, the research director undertook to develop a series of questions on the public's attitude to criminal justice intervention in family violence to be included in the annual Winnipeg Area Study. This survey included direct questions on the public's attitude to the specialized court, which was overwhelmingly supportive. The preliminary findings of this survey are included in Appendix A.

Finally, to ensure that the general public was informed about the progress of the specialized court, a press conference was held

November 13, 1991. The Minister of Justice, the senior crown attorney of FVC and the director of the research project, met with the media to discuss the results of the first year of operation of the Family Violence Court. A preliminary report of court statistics for the first year and the report on the Winnipeg Area Study Survey were both released to the public. Coverage of the press conference was very good, receiving wide local coverage and national coverage on CBC T.V. news, and coverage in *The Globe and Mail*, the *Edmonton Journal*, and other city presses.

### *3. Assessing the Impact of Family Violence Court on Social Services and Corrections.*

After the first five months of FVC operation, Chief Judge Kris Stefanson, in his capacity as Chairperson of the Court Implementation Committee, arranged a meeting of representatives of the committee with the Minister of Justice, the Minister of the Status of Women and the Minister of Family Services. The purpose of this meeting was to report to the ministers on the progress of the court, and the pressures being put on social service and corrections programs as a result of the high volume of cases in Family Violence Court.

One of the earliest concerns of the Committee was the impact of FVC on the Women's Advocacy Committee (W.A.P.), a program implemented in 1986 in the Department of Community Services<sup>3</sup> to provide information, support and advocacy for women whose partners were charged with abusing them. The program consists of a lawyer and two counsellors and has played a critical role in the effective processing of wife abuse cases in court.<sup>4</sup> The committee was concerned that as the court case load increased a program with 3 staff could not keep up. The Committee alerted the Ministers to this problem and advised that an increase in resources be allocated to the Women's Advocacy Program.

To facilitate a closer working relationship between W.A.P. and the specialized court, the program was transferred from the Department of Family Services to the Department of Justice in January 1992. The Committee is hopeful that this is the first step in restructuring and expanding the Women's Advocacy Program.

The second concern identified to the Ministers was the mounting pressure on corrections which resulted from:

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<sup>3</sup> Currently the Department of Family Services.

<sup>4</sup> Ursel, *supra*, note 2.

- (1) a higher number of cases coming to court
- (2) a higher number of Guilty Pleas and convictions and
- (3) a higher percent of assailants receiving court mandated treatment as part of their disposition.

This is of particular concern in Manitoba because The Department of Justice Probation Services has been the most active agency in providing batterers treatment groups. As the number of batterers sentenced to treatment has increased dramatically since the implementation of FVC, probation services has been literally swamped. While creative responses have occurred in Probation Services (for example — reallocation of duties — repriorizing of cases and the introduction of shorter — term treatment/education groups), the increasing need for more resources becomes more evident every day.

#### *4. Interjurisdictional Advocacy and Liaison*

Because the Family Violence Court operates only in Winnipeg and is the only specialized criminal court of its kind in North America, the Committee has received and responded to requests for information throughout the province and across the country.

The Committee had as its original mandate the responsibility to examine appropriate procedures for the extension of the principle of specialization to centres outside of Winnipeg. Upon successful completion of the first year of the Court, a sub-committee was struck and various communities were considered for extension. On November 20, 1991, this sub-committee met with Justice personnel and service providers in the City of Brandon. Justice personnel and service providers in Brandon have since struck their own Court Implementation Committee and are working to become the second centre in Manitoba with a specialized court.

In addition to extending the concept of specialization to other centers within the province, there has been increasing interest and activity concerning the development of specialized courts in other provinces. Several members of the Court Implementation Committee participated in the National Symposium on Women, Law and the Administration of Justice, sponsored by the Federal Minister of Justice, the Honourable Kim Campbell. This provided representatives from Manitoba with an excellent opportunity to respond to inquiries about the Family Violence Court from other jurisdictions. Ontario, New Brunswick, the Yukon and the North West Territories all expressed considerable interest and suggested that they would send observers to Manitoba. Since then, Chief Justice Kris Stefanson as Chair of the Court Implementation Committee, hosted a fact finding

delegation from Alberta, including the Attorney General, the Deputy Minister and the Chief Judge of the Provincial Court. The Alberta delegation met with key Justice personnel and attended court in November 1991. They were followed by a similar delegation from Ontario in December of 1991. Further, the Committee receives requests for reports on the specialized court from Justice Departments and Social Service agencies across the country.

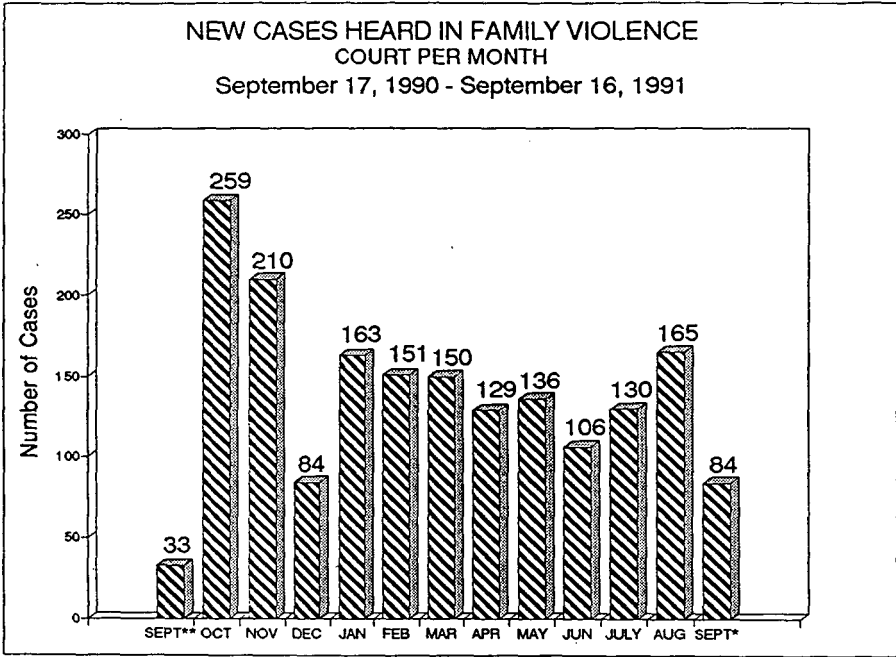
## **II. VOLUME AND TYPE OF CASES HEARD IN FAMILY VIOLENCE COURT**

### **A. Overall**

In the first year of operation the Family Violence Court has had an intake of 1,800 cases, which constitutes a 30% increase over last year (see Figure 1, below). The heavy volume of cases in October and November of 1990 was a product of a backlog of cases waiting to be referred to the Family Violence Court. On average the court handled about 150 cases a month in the first year. Given that the average case has at least 4 appearances prior to disposition, this results in approximately 600 appearances in Family Violence Court per month.

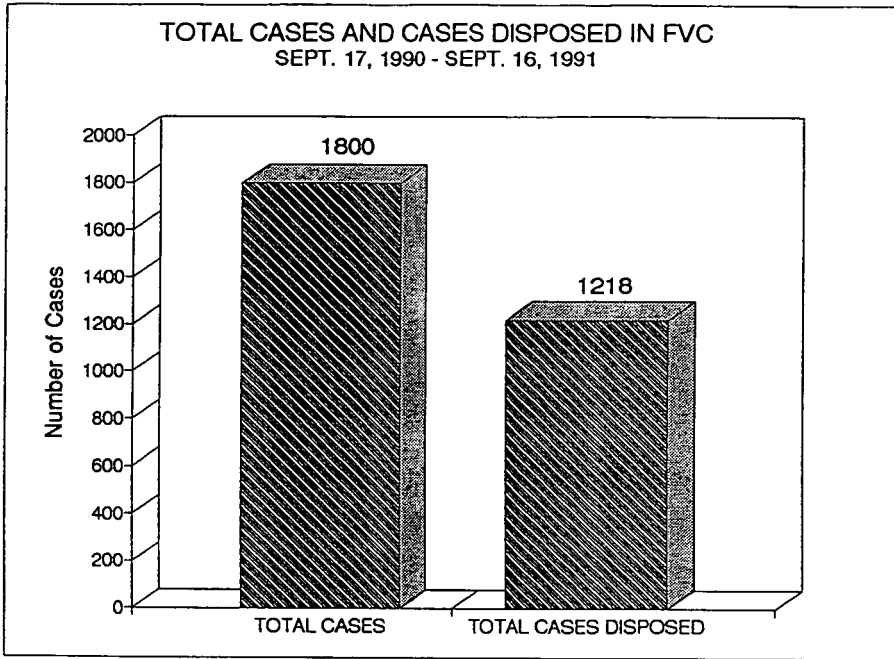


**Figure 1**



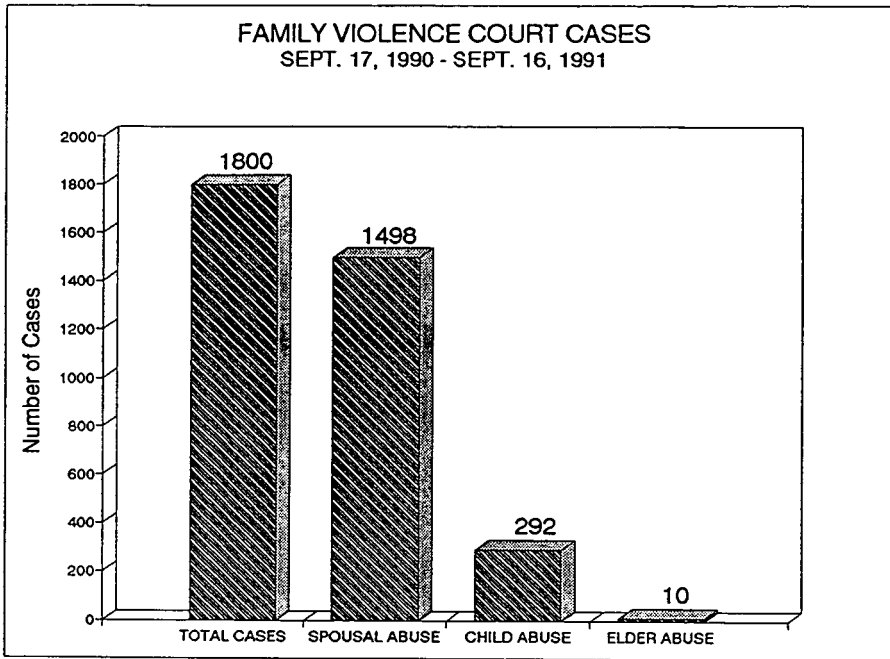
Increasing the court time was essential to avoiding the problem of backlog. Based on an analysis of 1,093 cases disposed of in the first year, the average processing time for all cases in the court was 3.4 months. Assaults involving adult abuse victims were processed most quickly with an average of 3.3 months, while child abuse cases involved on average 4 months to proceed through the court. As a result of the commitment of court time and personnel to the Family Violence Court, 67% or 1,218 of the 1,800 cases which entered the court were disposed within the first year of the court's operation (see Figure 2, below).

**Figure 2**



The majority of cases in Family Violence Court are spouse abuse cases. They constituted 1,498 of the 1,800 cases or 83%. Among the spouse abuse cases, 94% of the victims are women. Thus the most frequent type of case being heard in Family Violence Court are Wife Abuse Cases. During this same time period, 292 cases or 16% were child abuse (see Figure 3, below). Only 13 cases of elder abuse appeared before the court in the first year.

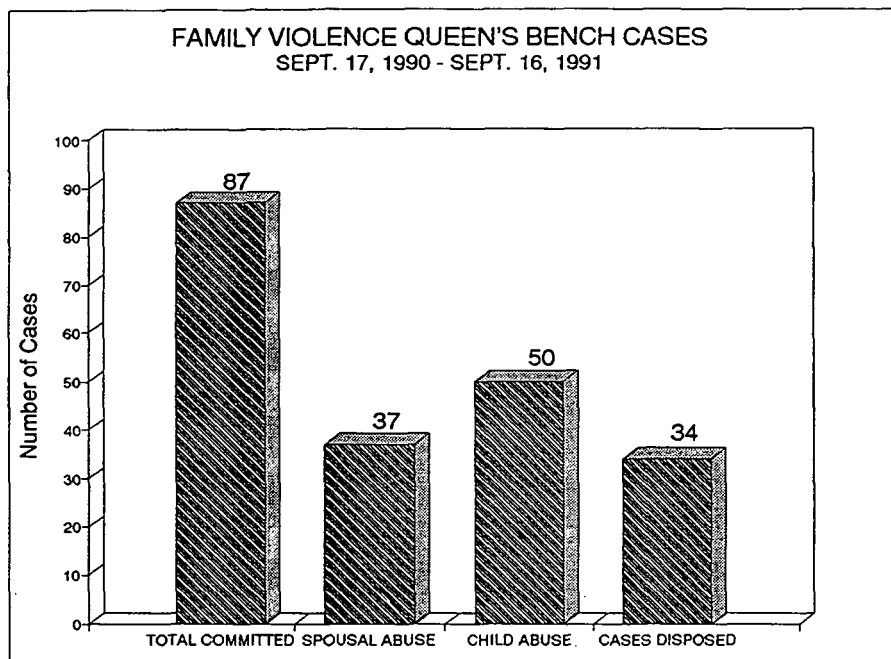
Figure 3



**B. Election to Queen's Bench**

A concern identified during the planning stage of the Family Violence Court was the possibility that a significant number of accused would by-pass the specialized court through electing to Queen's Bench. However, upon completion of the first year data, we find that only 5%, or 87 of the 1,800 cases which entered Family Violence Court, ended up in Queen's Bench (see Figure 4, below).

Figure 4



There is a difference between the number who elect for Queen's Bench and the smaller number who are committed to trial. This difference is largely a function of re-election rather than discharge. A number of defense lawyers "automatically" elect for Queen's Bench to "buy time." However, they usually re-elect to provincial court before or at the time of the preliminary hearing.

Election to Queen's Bench does substantially increase processing time. While Family Violence Court has a weekly docket or intake, Queen's Bench does intake only once a month. In addition a Queen's Bench election involves the equivalent of two trials, i.e. the preliminary hearing in FVC and the trial in Queen's Bench. Cases that are currently being monitored, which had their preliminary hearing in FVC in March or April of 1991 are scheduled for trial in September or October of 1991. The only factor which prevents the election option from delaying the overall processing time for family violence cases is the very small number of cases which actually are committed to Queen's Bench.

There is, however, a significant difference in the type of family violence cases which proceed to Court of Queen's Bench. While child abuse cases constitute the minority (16%) of the cases in the Family Violence Court, they constitute the majority of family violence cases which went to a trial in Court of Queen's Bench by way of election. Of the 1,495 adult abuse cases, 37 or 2.4%, have their trial in Queen's Bench, while 50 of the 292 child abuse cases, or 17%, proceed to Queen's Bench. Thus at the higher court, child abuse cases constitute the majority, 50 of the 87, or 57.5% of the family violence cases heard in Queen's Bench. One consequence of this selection pattern is that while child abuse cases being heard in Family Violence Court are, on average, disposed of in 4 months, the cases which proceed to Queen's Bench take 2 to 3 times as long.

### **C. Child Abuse**

The 292 cases which appear in Family Violence Court represent a very small proportion of child abuse incidents. A review of the Department of Family Services child abuse statistics indicates a much higher number of incidents brought to the attention of child welfare agencies than ever appear in court. The limited number of child abuse cases raises some general questions concerning the very high attrition rate. Why do so few cases make it to court? Unfortunately the department's statistics for 1990/91 are not yet available. However, a review of the 1989/90 statistics reveals a tremendous discrepancy between the number of incidents brought to the attention of child welfare authorities and those that proceed to court.

In the fiscal year 1989/90 the Child Abuse Office reports the investigation of 2,484 incidents involving 2,183 alleged abusers throughout the province of Manitoba. Of the total number of incidents, 15% or 369 resulted in criminal proceedings and 898 proceeded to Family Court for an order of guardianship. Of the total incidents of child abuse in the province 1,195 or 52% occurred in the city of Winnipeg. If the figures do not vary dramatically for 1990/91, the 292 child abuse cases in the Family Violence Court represent about 20% of the incidents reported in Winnipeg.

A consideration of the nature of the child abuse cases which were reported indicates a greater prevalence of sexual assault. The Department of Family Services reports 1,277 cases of sexual abuse (59% of all reported cases) and 895 or 41% involving physical abuse. The court data show an even greater prevalence of sexual assault cases. Of the 292 cases within the Family Violence Court only 56 have

been disposed. Of the disposed cases, 44 or 79% were sexual assault and 12 or 41% involved physical abuse.

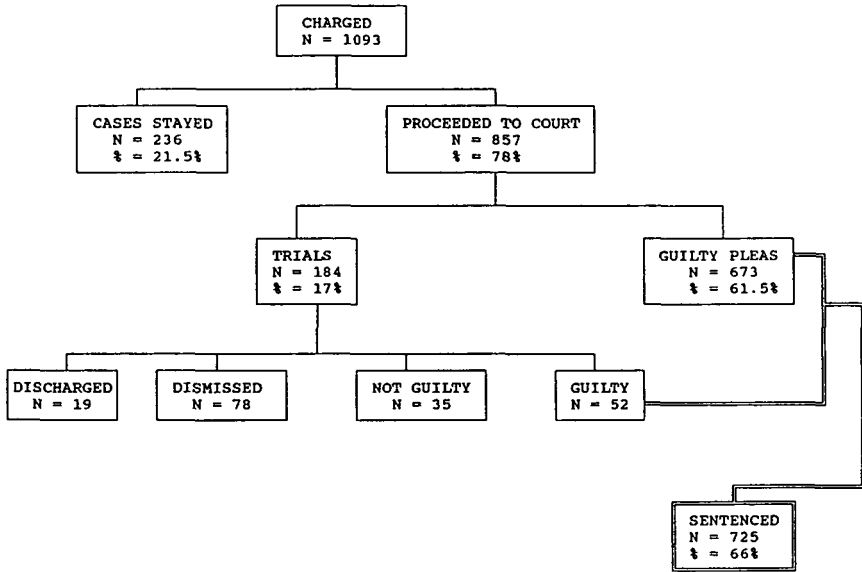
### III. RESEARCH FINDINGS

IN THIS SECTION WE will concentrate on case characteristics and court outcomes of the 1,093 cases which have been analyzed to date. This accounts for 90% of the 1,218 cases disposed of at the completion of the first year.

Of the 1,093 cases analyzed, 135 or 12% were child abuse cases, while 958 or 88% were domestic assault with adult victims. The slightly smaller percentage of child abuse cases in the analyzed data (12%) relative to the case load in court (16%) is due to the fact that a number of child abuse cases have yet to be disposed of. This delay is a result of these cases being elected for trial in Court of Queen's Bench. Among the 135 child abuse cases there are 21 cases in which the mother and child were both abused — these adult-child cases have been included in the child abuse category.

The most frequent outcome for the 1,093 analyzed cases was a guilty plea; 673 cases or 61.5% of the sample entered guilty pleas. The second largest category involved stays; 236 cases or 21.5% of the sample were stayed. The remaining 184 cases or 17% of these charged proceeded to trial. Of the 184 that went to trial, 52 were found guilty. A total of 725 of the 1,093 charged cases or 66% remained in the system to sentencing, as illustrated in the following case flow chart:

**Case Flow Chart  
All Analyzed Cases N = 1,093**



**A. Stays of Proceedings**

The overall stay rate for the 1093 cases analyzed was 21.5% whereas the stay rate for spouse abuse cases prior to the introduction of Family Violence Court was much higher. Data collected from 1983 to 1987 on domestic assaults indicated a five year average stay rate of 37%.<sup>5</sup> The introduction of the specialized court has resulted in a 15.5% drop in the stay rate. This, in turn, has a significant impact on the number of cases which proceed to sentencing. Prior to the specialized court only 51% of the family violence cases proceeded to sentencing. However, 66% of the cases in Family Violence Court proceeded to sentence.

Table 1 indicates a small difference between the stay rates for adult abuse cases and the stay rate for child abuse cases.

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<sup>5</sup> *Ibid.*

**Table 1**  
**Stay Rates by Type of Case**

	# Cases	# Stayed	% Stayed
All Cases	1,093	236	21.5
Adult Abuse	958	204	21.2
Child Abuse	135	32	23.7

We have requested that the crown attorney record the reason for a stay of proceedings and Table 2 provides a breakdown of these reasons for the analyzed cases.

**Table 2**  
**Reasons for Stay of Proceedings by Type of Case**

Reason	Adult Cases N = 204		Child Cases N = 32	
	#	%	#	%
Victim Refused	20	10	4	13
Victim Recants	41	20	4	13
Victim Not Served-Failed to Attend	44	22	4	13
Insufficient Evidence	12	6	9	28
Victim Not Able	-	-	4	13
Victim Provoked/Consensual Fight	33	16	-	-
Accused Sought Counselling	6	3	1	3
Other	36	18	6	19
No Information	12	6		
	<u>204</u>		<u>32</u>	

Note: Explanations were provided in 156 of the 204 stayed adult cases and 26 of the 32 stayed child abuse cases. The category "other" accounts for the remaining cases.



**B. Victim - Accused Characteristics**

In the 958 cases of adult abuse,<sup>6</sup> 899 of the accused or 93.8% were men, while in the case of child abuse, 123 of the 135 incidents or 91% involved a male suspect. The most frequent relationship between victim and assailant is identified in Table 3 for adult abuse cases and Table 4 for child abuse cases.

**Table 3**  
**Suspect - Victim Relationship in Adult Abuse Cases**  
**N = 958**

	# of Cases	% of Cases
Common Law	295	30.7
Ex-Common Law	110	11.5
Married	210	21.9
Ex-Spouse	115	12.0
Boyfriend-Girlfriend	112	11.6
Ex-Boyfriend-Girlfriend	77	8.0
Other*	39	4.0
<b>Total Adult Abuse Cases</b>	<b>958</b>	

\*Other includes a wide range of other relatives, as well as caregivers in the case of elder abuse.

Among the adult abuse cases the majority of incidents involved a couple in an ongoing relationship. Common law, marital and boyfriend-girlfriend relations accounted for 64.4% of the cases in contrast to estranged relations of ex-common law, ex-spouse and ex-boyfriend-girlfriend which account for 31.5% of the cases. In 653 adult abuse cases, where the information was recorded, 34 or 5.2% victims were known to be pregnant at the time of the assault.

Table 4 identifies the most frequent relationship between victim and assailant in child abuse cases. As in the case of adult abuse, incidents appear to occur most frequently in ongoing familial situations with parents, grandparents and uncles accounting for 43% of the assaults.

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<sup>6</sup> The figure of 958 adult abuse cases is a result of subtracting the 135 child abuse cases from the overall data set of 1,093 cases.

**Table 4**  
**Victim - Suspect Relationship in Child Abuse Cases**  
**N = 135**

	# of Cases	% of Cases
Child - Parent	26	19
Child - Step-parent	21	16
Child - Grandparent	4	3
Child - Uncle	8	6
Sister - Brother	3	2
Child - Acquaintance	35	26
Child - Stranger	7	5
Child - Caregiver	4	3
Other	27	20
<b>Total</b>	<b>135</b>	

The majority of victims are relatively young. Among the adult abuse cases 55% of the victims were less than 31 years of age and 86% were less than 41 years old. Table 5 presents the age distribution of victims in child abuse cases. While the majority of victim-witnesses are minors, we are beginning to observe cases of adults pressing charges against persons who had victimized them in their youth. There are two of these cases in this data set.

**Table 5**  
**Age of Victim in Child Abuse Cases**

Age	# of Cases	% of Cases
5 years & under	33	20.0
6 – 10 years	30	20.0
11 – 15 years	61	40.7
16 – 20 years	10	5.1
21 – 30 years	11	5.1
31 – 40 years	8	5.9
41 – 50 years	3	2.2
No Information	1	
<b>Total</b>	<b>157</b>	

Note: There are more victims than cases due to the incidence multiple of victimization. In this data set there are 21 mother-child victims. 21 of 23 adult victims are mothers; 2 are adults who were victimized as minors.

### C. Case Characteristics

There are a multitude of different charges laid in adult abuse and child abuse cases. However, in both cases five types of charges are most frequent. Frequency was determined by adding up the first three charges of the accused. Table 6 identifies the most frequent charges in adult abuse cases, and Table 7 identifies the most frequent charges in child abuse cases.

**Table 6**  
**Most Frequent Charges in Adult Abuse Cases N = 958**

Charge	# of Charges
Common Assault	644
Assault Causing bodily Harm	295
Uttering Threats	218
Possession of Weapon	126
Assault with Weapon	97
<b>Total</b>	<b>1,380</b>

Note: Total charges among five most frequent charges exceeds the sample size (958) because each accused typically has 3 or more charges. Among the 958 cases there were 14 cases of aggravated assault.

**Table 7**  
**Most Frequent Charge in Child Abuse Cases N = 135**

Charge	# of Charges
Sexual Assault	91
Sexual Interference	52
Common Assault	54
Assault Causing Bodily Harm	14
Assault with Weapon	11
<b>Total</b>	<b>222</b>

Note: Total charges among five most frequent charges exceeds the sample size (135) because each accused typically has 3 or more charges.

In addition to the fact that we are dealing with serious charges, we also find that there is a high incidence of prior records among the accused. Among the adult abuse cases the percentage of accused with P.R.'s was 70.7%. Among the child abuse cases, 63.7% of the accused had prior records. Table 8 indicates the number of the accused in adult abuse cases with prior records, as well as the type of prior record. Table 9 provides the same information for child abuse cases.

**Table 8**  
**Incidence and Type of Prior Record of Accused in**  
**Adult Abuse Cases N = 958**

	# of Cases	% of Cases
Prior Record	678	70.7
<i>Type of P.R.</i>		
Domestic Assault	209	30.8
General Assault	251	37.0
Child Abuse	1	.1
Sexual Abuse	7	1.0
Other*	189	27.8

\*The "Other" category of P.R. is very broad and includes a range of criminal offenses from Break & Enter to driving while intoxicated.

**Table 9**  
**Incidence and Type of Prior Record of Accused in**  
**Child Abuse Cases N = 135**

	# of Cases	% of Cases
Prior Record	86	63.7
<i>Type of P.R.</i>		
Domestic Assault	6	6.9
General Assault	21	24.4
Child Abuse	8	9.3
Sexual Abuse	13	15.1
Other*	37	43.0

\*The "Other" category of P.R. is equally broad in child abuse as in adult abuse cases.

The incidence of prior records in this data set is consistent with the findings in the previous quarterly report which indicated that 68.3% of the cases involved prior records. These numbers are also consistent with data on spouse abuse cases collected over the past 7 years.<sup>7</sup>

#### **D. Sentencing**

In concluding our data analysis we will consider the sentencing pattern revealed in the 725 analyzed cases which proceeded to sentencing. There is a clear change in sentencing practices emerging in Family Violence Court. Analysis of domestic assault cases processed from 1983 to 1987 in the general criminal court indicated that the most frequent sentences were: first, conditional discharge; second, suspended sentence and third, probation. Incarceration was rarely an outcome in domestic assault cases, amounting to only approximately 5.8% of cases over a 5 year average.<sup>8</sup>

In contrast to general court, Family Violence Court is imposing much more rigorous sentences. Of the 725 cases which proceeded to sentencing, the most frequent disposition was probation followed by suspended sentence with the third most frequent sentence being incarceration. Table 10 illustrates the five most frequent sentencing outcomes and the number of cases which received each disposition.

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<sup>7</sup> Ursel, *supra*, note 2.

<sup>8</sup> *Ibid.*

**Table 10**  
**Sentencing Pattern in Family Violence Court**  
**N = 1,093**

	# of Cases	% of Cases Proceeded to Sentence	% of All Cases
Total Cases which proceeded to sentence: 725			
Probation	582	80	53
Suspended Sentence	211	29	19
Incarceration	160	22	15
Fine	154	21	14
Conditional Discharge	80	11	7

Note: When one adds up the number of cases in the different sentencing categories the total is greater than 725 due to the fact that each case typically results in more than one disposition, for the same reason the percentage totals would be greater than 100.

Among the convicted who receive probation as part of their sentence, the majority receive supervised probation. Table 11 indicates the high case load probation services is now experiencing given that the majority of offenders (85%) require supervision.

**Table 11**  
**Probation**  
**N = 582**

	Total
Supervised	486
Unsupervised	<u>85</u>
	571
No Information	<u>11</u>
	582

Furthermore, 83% of the offenders who received a probation sentence were mandated to a treatment program. Table 12 indicates the most frequent treatments mandated. Overall, 67% of the 725 cases which proceed to sentencing were mandated to treatment programs.

**Table 12**  
**Court Mandated Counselling**  
**N = 582 on Probation**

	Total	%
Abuse Group	257	
Anger Management	<u>44</u>	
	301	52%
Alcohol Treatment	183	31%
Total Court Mandate Counselling	484	83%

A final concern with family violence cases is the number of accused who have violated court orders. This is a matter of serious concern in assessing the safety of the victim/witness. Table 13 indicates the number of breaches of court orders within the first year.

**Table 13**  
**Charges for Violating Court Orders**

Breach of Recognisance	92
Breach of Court Order	19
Breach of Probation	<u>12</u>
	123 — 11% of all cases

#### IV. CONCLUSION

IN CONCLUDING THIS PRELIMINARY report, we would like to highlight the three areas in which change from previous years is most evident:

1. A 30% increase in family violence cases coming to court. The majority of these cases are wife abuse cases.
2. A reduction of 42% in the Stay rates, from 37% prior to court specialization to 21.5% in Family Violence Court.
3. A significant change in sentencing in the specialized court. The largest increase over previous years is in the rate of probation and incarceration.

At the end of the first year there is evidence that the specialized court is meeting its objectives in a number of areas. Despite the increase in the volume of cases, the court has been able to stay close to its goal of processing most cases within a three month period. Further, not only are more cases going to court, but more cases are staying in court to the point of sentencing. Prior to Family Violence Court, approximately 51% of wife abuse cases proceeded to sentencing.<sup>9</sup> At year end, 66% of the 1,093 cases analyzed proceeded to sentencing.

## **APPENDIX A:**

### **Preliminary Findings from the 1991 Winnipeg Area Study of Public Attitudes Towards Criminal Justice Intervention in Wife Abuse and Family Violence Cases**

#### **I. PRELIMINARY REPORT**

THE WINNIPEG AREA STUDY, a project of the Sociology Department at the University of Manitoba, is an annual social-demographic survey of Winnipeg residents. The survey is a 50 minute, in person interview, of approximately 740-50 households, drawn from a systematic random sample of all households in the city.

In order to determine public response to Criminal Justice intervention in family violence cases, questions on the charging directive were included on the 1984 Winnipeg Area Study and questions on the specialized Family Violence Court were included on the 1991 study. The study used a random sample of 744 households and acquired 575 completed questionnaires in 1984 and 533 in 1991. Eligible respondents were between 18 and 80 years of age.

As a summary of the findings, it can be reported that Winnipeg residents are concerned about wife abuse and family violence and are supportive of police and court intervention in such cases. Comparative data from the 1984 survey indicates that residents' knowledge of the problem and support for criminal justice intervention has grown over the past seven years.

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<sup>9</sup> *Ibid.*



## II. SUMMARY OF FINDINGS

- 53.5% of the 1991 sample reported having personally known of a woman who had experienced wife abuse, 46% reported such knowledge in 1984. This 7.5% increase in 7 years suggests a much greater prevalence of disclosure.
- Disclosure appears to be more prevalent in wife abuse cases. In response to a question about knowledge of abuse among friends or relatives — 45% reported knowledge of wife abuse, 25% reported knowledge of child abuse, 15% reported knowledge of husband abuse and 10% reported knowledge of elder abuse.
- 87.4% in 1991 reported support for the directive on charging in wife abuse cases, compared to 85% support in 1984.
- However, less than half of the respondents (44.2% in 1991) expressed the belief that police followed the directive in most or all cases.
- The majority of respondents were also critical of the courts past handling of family violence cases. Less than a third (28.1%) felt that the courts were understanding of victim's needs in most cases.
- However, 89.5% of the respondents supported the specialized Family Violence Court. This support was very strongly expressed, 44.1% reporting strong agreement and 45.4% reporting agreement.
- Furthermore, 56% of the respondents reported that they believed that the Family Violence Court could have helped in the cases of family violence of which they were personally aware.
- Despite greater knowledge and greater support for police and court intervention, there appears to be little change between 1984 and 1991 in reporting behaviour. In 1984 respondents reported that 36% of the known cases of wife abuse were reported to the police. In 1991 this figure was 40%.

**III. TABLES AND FIGURES**

**Table 1: Respondents' Personal Knowledge of Abused Women**

QUESTION: "Have you ever personally known of a woman who has experienced wife abuse?"

YES \_\_\_\_\_  
 No \_\_\_\_\_  
 DON'T KNOW \_\_\_\_\_

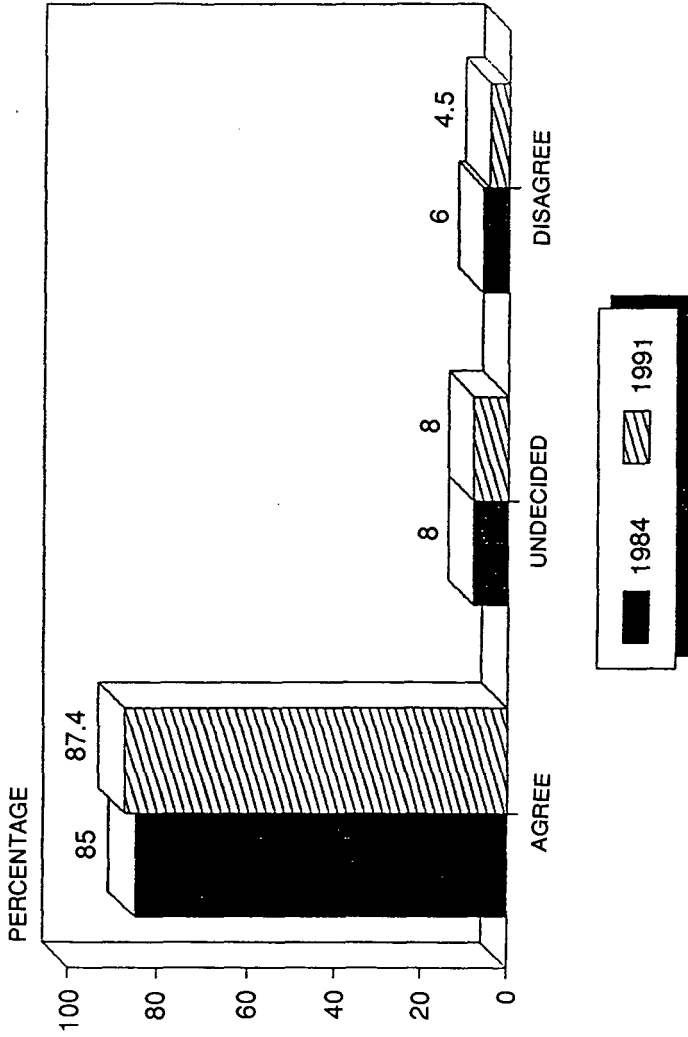
RESPONSE:

Percentage of Respondents who have Personally Known an Abused Woman for Overall Sample 1984, 1991.		
Response	1984	1991
Yes	46%	53.5%
No	54%	46.3%
N	569	533

OBSERVATIONS:

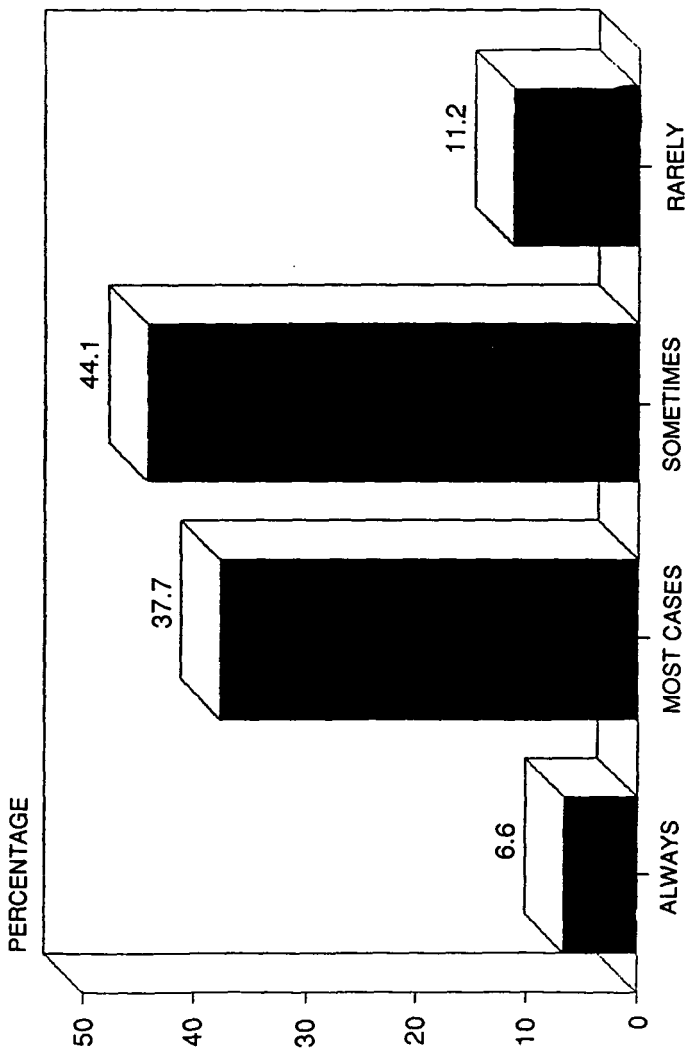
- While *estimates* of prevalence and frequency of abuse showed a small decline from 1984 to 1991, actual *knowledge* of a woman who had been abused has increased 7.5% in the past 7 years.
- In 1991 over half of the respondents (53.5%) reported having personally known of a woman who has experienced wife abuse.

PUBLIC OPINION: DO YOU AGREE WITH THE DIRECTIVE TO CHARGE?



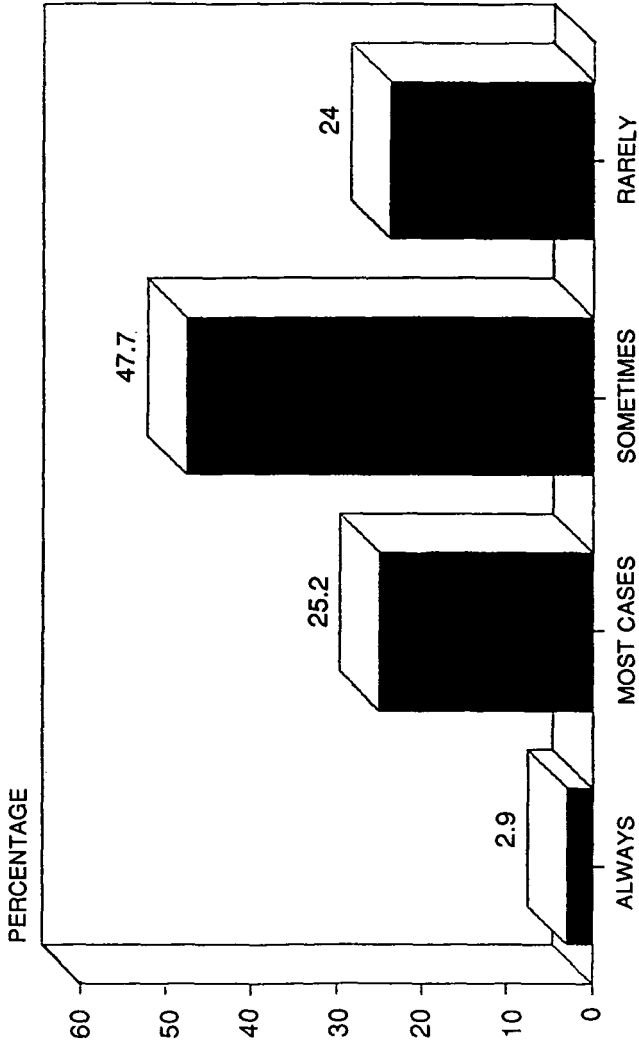
WINNIPEG AREA STUDY 1984 and 1991

PUBLIC OPINION: DO YOU THINK THAT  
THE POLICE FOLLOW THE DIRECTIVE?



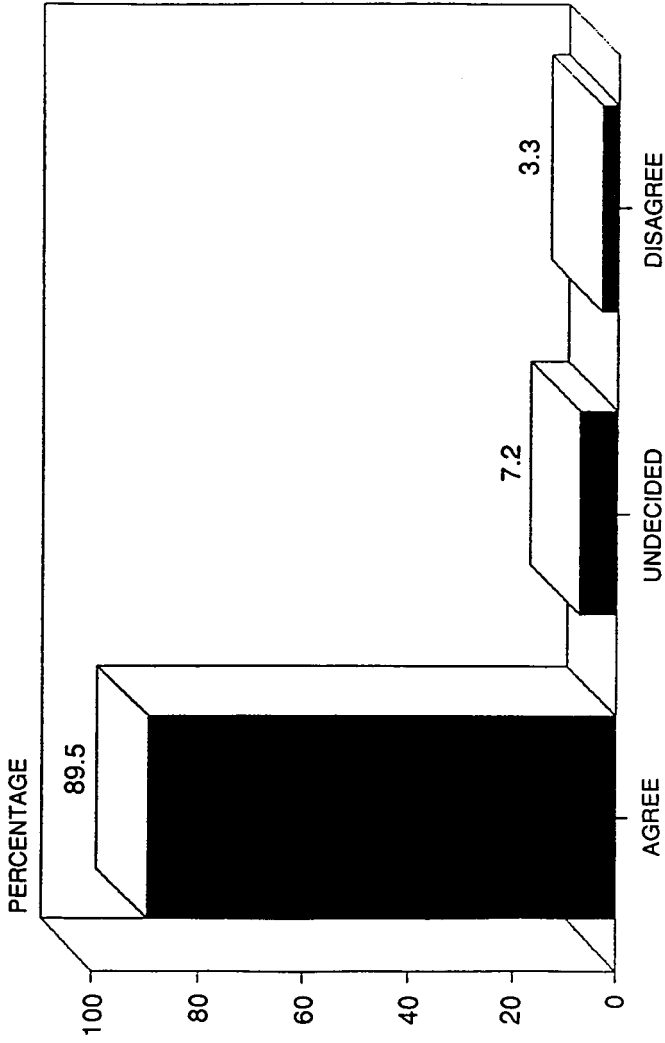
WINNIPEG AREA STUDY 1991

PUBLIC OPINION: COURTS UNDERSTANDING OF THE NEEDS OF ABUSED VICTIMS PRIOR TO THE SPECIALIZED COURT



WINNIPEG AREA STUDY 1991

PUBLIC OPINION: DO YOU SUPPORT THE SPECIAL FAMILY VIOLENCE COURT?



WINNIPEG AREA STUDY 1991

**Table 2: Respondents' Knowledge of Reporting Behaviour in Known Cases of Wife Abuse**

QUESTION: "Were the police informed or did they find out about this incident in any way?"

YES \_\_\_\_\_

NO \_\_\_\_\_

Respondents' Knowledge of Reporting Behaviour in Known Cases of Wife Abuse.				
Police Informed	1984 Known Cases	1984 % of Known Cases	1991 Known Cases	1991 % of Known Cases
Yes	93	36%	112	40%
No	138	54%	137	48%
Don't Know	27	10%	34	12%
N	258		283	

**OBSERVATIONS:**

- 283 or 53.1% of the respondents personally had known a woman who had experienced wife abuse.
- In 249 or 87.9% of these known cases the respondents knew of the outcome.
- 112 or 40% of all known cases involved the police.
- 47 or 42% of cases with police involvement resulted in charges.
- 33 or 70% of cases with charges proceeded to court.
- 33 or 12% of the known cases came to the attention of the courts.