



# Ontario Coalition of Rape Crisis Centres

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May 18, 2010

Vic Toews  
Minister for Public Safety  
Suite 306, Justice Building,  
House of Commons  
Ottawa, ON. K1A 0A6

**RE: Tories consider returning the term ‘rape’ to Criminal Code – ‘Sexual assault’ covers a confusing range of offences, Vic Toews says**

Dear Mr. Toews,

The Ontario Coalition of Rape Crisis Centres (OCRCC) works toward the prevention and eradication of sexual assault. Our membership includes sexual assault centres from all across Ontario, offering counselling, information and support services to survivors of sexual violence, including childhood sexual abuse and incest.

OCRCC is writing regarding the Conservative government’s comments on attempting to bar offenders convicted of sexual assault on a minor from applying for a criminal pardon. Specifically, you stated that the legal term of sexual assault “can basically be from a very minor sexual touching to a rape,” and that this change in the Criminal Code had “unfortunately<sup>1</sup>” been made some time ago. You suggested that it might be more helpful to reinstate legal terminology that separated rape from other forms of sexual assault, so to support barring perpetrators of rape, but not necessarily other sexual offenses, against children from receiving criminal pardons.

The OCRCC regrets your comments concerning legally distinguishing rape from other forms of sexual assault. We feel this is far too simple a criterion for deciding which offenses merit pardoning and which do not.

Further, your comments support erroneous social myths about sexual violence and its impacts. Distinguishing rape from other forms of sexual assault erroneously suggests that some forms of sexual assault are violent while some forms of sexual assault are “minor” and non-violent, and that those who have experienced rape will be more adversely affected than those who have experienced other forms of sexual violence. This differentiation can suggest that some forms of sexual assault should be “forgivable” under the pardons program (i.e. Sexual assaults that do not involve penetration) and some should be “not forgivable” (i.e. forced sexual intercourse).

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<sup>1</sup> Online: [www.thestar.com/news/canada/article/808083--tories-consider-returning-the-term-rape-to-criminal-code](http://www.thestar.com/news/canada/article/808083--tories-consider-returning-the-term-rape-to-criminal-code). May 13, 2009

These presumptions are not accurate. Sexual assault can have significant impact on victims regardless of the physical details of the incident: Statistics Canada indicates that victims are physically injured in 11% of sexual assaults, and *nine out of ten* incidents have an emotional effect on the victim – including depression, flashbacks, sleep disturbances and anxiety<sup>2</sup>. We emphasize that all forms of sexual assault, be they unwanted touching or rape, are violent. The legal term “sexual assault” supports this.

It is important to note that myths about sexual violence shape our legal and policy notions of guilt, blamelessness, and offender responsibility. These notions go on to affect survivors’ reporting of sexual assault: sadly, only 6% of sexual assaults are reported to the police<sup>3</sup>. Sexual assault survivors fear that their story will be minimized, or that they will be re-victimized by the justice system: for example, in a 2004 study, 50% of sexual assault survivors identified that they did not report because they “felt it [the offense committed against them] wasn’t important enough”<sup>4</sup> to do so.

**OCRCC fears that comments such as those made by yourself as Minister for Public Safety may suggest that some forms of sexual assault are not recognized as significant. This in turn can discourage survivors of sexual violence from seeking support. The OCRCC makes the following recommendations:**

- **Commit to designing best practices for deciding which offenses merit pardoning (and which do not that) are comprehensive, responsible and enforceable**
- **Consult with sexual assault centres and other services for victims of crime, and incorporate their expertise into your reviews of pardon policy and legislation**
- **Acknowledge sexual assault myths, and commit to strongly repudiating them, in any legal or policy action you may make related to sexual violence in future**

The Ontario Coalition of Rape Crisis Centres has a 30-year history of working in Ontario and Canada to address and end sexual and other forms of violence in our communities.

Sincerely,

Nicole Pietsch,  
OCRCC Coordinator

c.c. Jacqueline Benn-John, OCRCC President  
The Honourable Chris Bentley, Ministry of the Attorney General  
Laurel Broten, Minister Responsible for Women’s Issues, Ontario Women's Directorate

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<sup>2</sup> Statistics Canada, "The Violence Against Women Survey," The Daily, November 18, 1993.

<sup>3</sup> OWD 1995, 1, 5

<sup>4</sup> Juristat Canadian Centre for Justice Statistics: Sexual Offenses in Canada. Statistics Canada, Vol. 23, no. 6. 2004.