

## Pregnant teenager jailed as a witness

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Refused to testify against boyfriend at assault trial

**Chris Wattie, National Post, with files from Jordana Huber and Shannon Kari**

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TORONTO - Domestic violence activists are outraged by the jailing of a pregnant Toronto teenager to force her to testify at her boyfriend's abuse trial a week before she is due to give birth.

Noellee Mowatt, 19, is being held under a material witness warrant to force her to appear against her boyfriend this week at his trial on charges he assaulted her in their apartment last December.

"I'm never calling the police again, even if my life's in danger," Ms. Mowatt, who is charged with no crime and has no criminal record, told the National Post through her lawyer. "I'll never talk to the police ever again."

Christopher Harbin, 25, is charged with eight offences, including assault with a weapon, forcible confinement and breaching probation. He is also being held in custody until his trial on Friday.

"This is just completely wrong-headed," said Amanda Dale, of the YWCA women's shelters in Toronto. "Putting a woman behind bars when she's the victim of a crime seems to me to be counterproductive."

Experts on family violence said they believe this is the first time in Canada that a victim has been jailed for failing to testify against her alleged abuser.

"It's the first I've heard of and I've been working in this field for 25 years," Ms. Dale said.

Ms. Mowatt was arrested last week under a judicial warrant for failing to appear at the first trial of her boyfriend and, to the astonishment of her lawyer, Lydia Riva, was denied bail.

Since last Thursday, Ms. Mowatt has been held in a cell at the Vanier Women's Centre in Milton, Ont.

"My client is being punished for not pursuing charges against her boyfriend," Ms. Riva said yesterday. "We're supposed to reserve jail for the worst offenders, not for victims."

Ms. Mowatt is nine months' pregnant with Mr. Harbin's child and is due to give birth on April 15. Her lawyer said

the stress of being in jail has caused health concerns.

"She contracted the flu and had to seek medical attention," Ms. Riva said. "She's obviously very stressed [A] she doesn't want to have the baby in jail."

As a result of media attention to her case, Ms. Mowatt was placed in the provincial jail's segregation block, in solitary confinement for one night. "That's not a place you want to be," Ms. Riva said. "They told her it was for her own protection, but I believe it was to punish her for talking with the media."

Experts on domestic abuse say jailing a victim will prevent other victims from complaining to police.

"I can understand the court wanting to go after someone who's perpetrated such violent abuse, and I understand the frustration of police when these cases are dropped because the victim won't pursue charges," said Dr. Gail Erlick Robinson, a psychiatrist at the University of Toronto who studies violence against women.

"But for her to end up being punished for this is just ludicrous. [A] It sends a completely wrong message to other women out there in her situation."

Ms. Dale said the case could dissuade other alleged victims from having an abusive spouse charged. "This sends a chill through any woman in the community who is considering involving the law," she said.

"This is dangerous. Because of this case, more women are going to live with this, put up with the violence, and that could quite possibly lead to them eventually being killed."

Peter Kormos, the Ontario NDP's justice critic, called the case shocking and said the provincial government should ask the Crown prosecutor to reconsider the decision to hold Ms. Mowatt in jail.

"It's barbaric to see a woman who's a victim of violence incarcerated for failing to appear at her alleged abuser's trial," he said. "It's a gross injustice for this woman to be sitting in a cell."

Rick Bartolucci, the province's Community Safety and Correctional Services Minister, would not comment on the specifics of the case. But he said Ontario's institutions are equipped to address the medical requirements of those in custody, and he was "confident" Ms. Mowatt's needs were being met.

"She is a pregnant lady so obviously we will ensure that her medical needs are taken care of," Mr. Bartolucci said.

Ms. Mowatt's troubles began on Dec. 28, when police were called to the home she shared with Mr. Harbin. He was arrested and charged.

But when his trial began on March 20, Ms. Mowatt had reconsidered and did not appear in court. Her lawyer said that a subpoena requiring her to appear remained at a police station, and she never picked it up. Police claim Ms.

Mowatt was contacted several times to be served with the subpoena but refused to pick it up.

The judge in Mr. Harbin's assault trial then issued a material warrant for Ms. Mowatt's arrest. Police arrested her last week and when she appeared in court last Thursday, was ordered held without bail by a justice of the peace.