

Jailed, pregnant victim sparks heated reaction

'On the face of it, it creates a little bit of discomfort,' premier says of reluctant witness

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She's 19 years old and nine months pregnant. She's a landed immigrant whose father is dead and whose mother takes care of her 2-year-old daughter in Jamaica. She's socially isolated in Toronto, shuffling between shelters and a rooming house. And, only days before she is due to deliver, she's the alleged victim in a domestic violence case.

In the eyes of the justice system, Noellee Mowatt is the picture of vulnerability – and those are just some of the reasons why the courts have decided to detain her in jail until she testifies at her boyfriend's assault trial tomorrow, experts say.

"Under a certain lens, those things make her look like she's less likely to have self-determination," says Amanda Dale, YWCA director of advocacy and communications.

"'You don't know what's good for you' is what (the courts) are saying. There's a certain patronization there."

Mowatt, petite and soft-spoken, was arrested last week after a judge issued a material warrant for her arrest. According to lawyer Alan Young, this Criminal Code section is rarely invoked to detain alleged victims of domestic violence. It is used most frequently on people who have no roots in the community and are liable to flee, like those involved in organized crime.

It's the only alternative available, Young said, if there's evidence a witness won't show up.

Police said they tried several times to serve Mowatt with the summons to court. While the teen denies she was asked to pick up a subpoena, she does admit, "I told them I didn't want to testify."

Premier Dalton McGuinty acknowledges the pregnant woman's case is raising concerns.

"On the face of it, it creates a little bit of discomfort," he said. "I'm just speaking as an ordinary person on this. On the other hand, a judge has made a call and I'm not going to second guess that decision."

McGuinty said it's difficult to determine if jailing the woman will deter other women from coming forward in abusive situations.

Opposition parties said McGuinty should be calling for a thorough review of how domestic violence cases are handled.

"This is outrageous. Of course this is going to deter other women from coming forward," said New Democrat MPP Cheri DiNovo.

"The process stinks," added Conservative MPP Joyce Savoline. "For a woman to be dragged out of her home at midnight, pregnant, almost a child herself ... I think that begs some review."

The teen's attitude doesn't surprise women's advocates, including former attorney general Marion Boyd, who said there are many reasons women do not want to testify, including fear of retaliation.

With files from Rob Ferguson