

## Executive Summary

In September 1997, in Durham Region, a Community Coalition formed and began a community dialogue regarding custody and access issues in situations where woman abuse was involved. Out of these discussions, it became apparent that any recommendations for change must be grounded in the voice of the experts - those who survived woman abuse and proceeded through the custody and access process.

Seven focus groups were held with a total of 52 women. Additionally, since the project began a number of individual women have added their voices to further increase our understanding. They offered insight, testimonials and expertise around their experiences in the custody and access process. Throughout the focus groups, three themes were dominant:

### **Credibility**

As is most often the case, many participants had little, if any, "evidence" to prove their claim of woman abuse. Without documentation, most of the participants felt the burden of proof rested on their shoulders, leaving them in a battle of "he said, she said".

Participants described many instances when ex-partners used access visits to continue to control and undermine the mother and make life unpredictable for her and the children. Examples included unannounced visits, returning children very early or late, forcing children to go on visits when they didn't want to, being drunk or stoned on access visits, not allowing children to call their mother, etc. Some reported that their children disclosed abuse after the separation but women found themselves in a 'catch 22' position, fearing that if they disclosed the abuse they would be seen as an "unfriendly parent", but that if they didn't they could be charged with "failure to protect".

### **Lack of Accountability**

Many participants recounted endless stories of violated agreements with their ex-partners and legal professionals. Most women felt that there are few, if any, avenues in place to hold all parties accountable for their commitments. Women expressed frustration that ex-partners were allowed to continue controlling behaviour and to use legal and custody battles as a method of ongoing harassment.

### **Revictimization**

Leaving an abusive relationship demands that a woman use all of the emotional and financial resources available to her. Despite this draining process, most participants felt "the system" was relentless, facilitating an extension of the abuse, but in a different, seemingly legitimate form.

Results from a written questionnaire included the following:

89% of the participants described themselves as economically comfortable **during their marriage**, while 84% of the participants described themselves as low income **after their separation**.

88% of the participants stated that their children had been in the home while the abuse was occurring.

79% stated their children had been directly abused by their ex-partners.

The Denise House

In almost all of the participants' responses, the motivation to finally leave the abusive relationship was centred on the well being of their children.

The average length of time to resolve the custody and access disputes was 3.5 years. Some spent as long as 6.5 years and others are still unresolved after that length of time.

Participants typically attended at court 5-10 times with a range between 1-23 times. On average participants appeared before 4 judges.

The participants collectively spent \$670,000 on legal proceedings (not including the cost for 9 participants on legal aid).

74% of the participants were awarded sole custody with access (unsupervised) by their ex-partners. 20 % were awarded joint custody with their abusive ex-partners.

26% of the participants indicated supervised access had been ordered. One participant had to provide the supervised access herself.

For 2 participants, their abusive ex-partner had custody of the children. One participant's ex-partner is trying to get full custody.

### ***Steps for Change - A Solution Focused Working Conference:***

In March 1999, a two-day working conference was held involving over 200 participants from Durham Region. The conference explored potential solutions for the issues raised by the woman abuse survivors in the focus group research. Participants made a number of specific recommendations.

Arising from the recommendations of the conference, four working groups were established. As of June 2000, the working groups have met for one year with the following results:

#### **I Woman Abuse Review Committee**

The working group for the Woman Abuse Review Committee (WARC) has developed a proposed model for establishing a multi-disciplinary accountability network for the purpose of consultation on woman abuse cases, discovering where issues arise for survivors and their children, and collaborating on developing coordinated solutions and responses by systems. This model will be taken to the community for discussion, revision, and to establish membership and commitment.

#### **II Luke's Place Working Group**

The Luke's Place Working Group has defined potential roles of a central resource center that provides support and education for woman abuse survivors and their children as they deal with custody and access issues. A preferred delivery model has been chosen and an action plan is being identified to continue with steps to make Luke's Place a reality, including exploration of a potential joint plan with The Denise House.

#### **III Lawyers' Working Group**

This working group prepared proposed Best Practice Guidelines for lawyers acting for woman abuse survivors and for lawyers acting for abusive men. This working group also highlighted the need for increased funding and resources for legal aid to provide women with access to justice, and for reform of family law legislation and procedural court rules to provide an appropriate analytical framework for domestic violence cases.

#### **IV Task Force on Court, Police and Legal Issues**

The Judges' Orders Subcommittee of the Task Force on Court, Police and Legal Issues has explored deficiencies of existing Restraining Orders and ongoing difficulties with police enforcement including various forms of harassing behaviours experienced by women when dealing with custody and access issues and confusion experienced by officers in their interpretation of the Order and the limitations of arrest. Ten specific recommendations are suggested.

The Information Package Subcommittee has begun the development of a manual for woman abuse survivors on options within the Justice System. Included is a description of a process for manual development and a sample section on Peace Bonds.



***Other Initiatives:***

Comments are included about the learning gathered in exploring the circumstances around the tragic death of Luke, a 3-year old boy from Durham Region who was brutally murdered by his father on a first unsupervised access visit.

Screening and Risk Assessment Tools are discussed, including cautions about the use of such tools. Samples of both are provided.

Testimonies from focus group participants are included. For our information and understanding, woman abuse survivors share their stories and experiences.

***In Conclusion:***

Many community participants and professionals have worked together diligently to give serious consideration to the difficulties and issues faced by woman abuse survivors as they attempt to leave abusive situations and deal with custody and access issues. These women manage to advocate on their children's behalf, hold their jobs, and run their homes, while still coping with abusive ex-partners and the emotional and financial stress of a custody and access battle. Some have, in addition, worked with community members in the attempt to make things better and safer for the women who follow.

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