

The Focus Group Research — 52 Women Speak Out

General Introduction

Since the early 1970's, grass roots groups of women, many survivors of woman abuse themselves, and their allies, began to speak out and identify the issue of violence against women, particularly male violence against women in heterosexual relationships. One of the first shelters to focus specifically on the needs of battered women was founded by the author Erin Pizzey who wrote the classic book *"Scream Quietly or the Neighbours Will Hear"*. This book was based on the experiences of those early women who both worked at and came to that first shelter, Chiswick Women's Aid, in London, England. The year was 1971.

In Canada our first shelters began to appear in 1973 with Interval House in Toronto, Ontario, and Vancouver Transition House in British Columbia. Since that time shelters have sprung up across the country to address the needs of women fleeing, most often with their children, to escape escalating violence from their intimate partners. Most of these early shelters were rooted in feminist thinking that analyzed violence against women as a result of a power imbalance between the victim and the offender. Many reasons were explored to explain why abusers harm their partners (dating, common law, married, separated and divorced) but ultimately most experienced advocates and allies in the field agreed that abusers were violent because they believed they had a right to be, and more importantly they **continued** to abuse because they could get away with it with few, if any, consequences from the community.

During the past 30 years many terms have been used to describe violence in the family such as spousal violence, domestic violence, spousal assault, etc. However, the most accurate term is violence against women and children, or as Jaffe describes in a recent paper, the "maltreatment of women and children" since they represent the vast majority of victims.¹ This does not exclude men who are abused, but in most cases men's violence against women creates greater injury, pain and suffering. A large proportion of women's violence towards men is in self-defense or in retaliation for previous assaults.²

Because of the shame and secrecy that still surrounds this experience of abuse at the hands of one's most intimate partner, reported statistics only reflect the tip of the iceberg. It continues to be true in 1999 that the vast majority of abuse survivors seek their own solutions in the privacy of their homes. Those studies that have attempted to define the incidence of violence in these homes suggest a wide range of estimates depending on the research methodology used and the author's definition of violence. Two significant Canadian surveys found that 29% of all Canadian women had experienced physical or sexual violence at the hands of a marital partner (common law unions included). For 10% of those women the violence was so severe they expressed fear for their personal safety and their lives.^{3,4}

Since 1983, in Ontario, prevention efforts to end violence against women in intimate relationships have been organized around the criminalization of woman abuse. With that view, certain beliefs wove their way into social and public policy. Violence in the home was considered life threatening to all family members and was no longer to be treated as a private family matter.

Many activists in the field believe that violence in the home is the number one mental and physical health problem facing women in this country today. Battering and rape continues to be a major cause of injury to women, higher than auto accidents or muggings combined.⁵ More than half of all women murdered in Canada are killed by their current or former partner.⁶ Every six days a woman in this country is murdered by her intimate partner.⁷ A Canadian woman is 13 times more likely to be harmed by her intimate partner than by a stranger on the street.⁸

The vast majority of women abused by their partners continue to suffer in silence. Only 26% of the incidents recorded in the national Violence Against Women Survey were formally reported.⁹ Those women who did report their assaults to the police were more likely to do so if they had been assaulted more than 10 times, if their partners had used weapons against them, if their children were involved in the assaults and/or if they believed they would be killed.¹⁰ Even though it is believed that as many as 40% of female injuries treated in our emergency rooms are the direct result of partner abuse, only 1 in 20

women who actually seek medical help, are properly identified.¹¹ Women don't voluntarily disclose what is happening to them unless they are directly asked. Even then they may well deny it in an effort to protect their partners or out of fear of further damage. 22% of the women participating in the national survey told no one, not even their families or friends.¹²

Clearly most violence occurs behind closed doors in the absence of witnesses. When the abuse escalates in frequency and severity, as it most often does, woman abuse survivors are left to their own devices to prove themselves credible witnesses in the eyes of the community. Because of the built-in systemic sexism in most of our institutions, women face an uphill battle to prove themselves worthy of attention. The words of their abuser are echoed in the public domain as well as in their private lives. Victims of violence are often described as whiners and liars as well as deceitful, bitter, manipulative, vindictive women. Too often their worst fears of somehow being at fault are confirmed. No-where is this fear played out more than in their roles as mothers.

There is little question that children in these families suffer. While mothers believe they have kept the violence away from their children, as many as 80% of children interviewed describe the opposite.¹³ Most children not only are aware of what happened, but they can give detailed descriptions about the escalation of violence. If given the opportunity, children are forthcoming about the patterns of violence in their home. They describe hearing it, seeing it, sometimes being in the middle of it, as well as vivid descriptions of the aftermath of the violence - their mother's bruised body, their living space in ruins, possibly their family pets and prized possessions being injured or destroyed.¹⁴ In the worst-case scenario, children witnessed their mothers being murdered by their fathers in 25 of the cases of intimate femicide.¹⁵

Children Exposed to Violence in their Homes Are Children at Risk:

The impact of exposure to violence has both short-term and long-term consequences that depend on a child's age, gender and stage of development. Child and family advocates have observed both overt and covert symptoms of this exposure through mothers' stories and directly from the children themselves.

Preschool children often demonstrate excessive symptoms of distress, such as stomachaches and headaches. These children often have difficulty with bedtime routines, demonstrating sleep disturbances such as insomnia, heightened fear of the dark, and violent nightmares. Mothers describe regressive behaviour such as whining, clinging, and separation anxieties, as well as bedwetting. In the more severe cases of exposure to violence, clinicians have witnessed the "failure to thrive" syndrome in some infants.¹⁶ These symptoms are often compared to the indicators of Post Traumatic Stress Disorder (PTSD) in the research literature.¹⁷

A child depends upon adults for physical survival, emotional warmth and nurturing, and protection from external and internal threats. Abuse in a home creates an atmosphere of fear, pain and anxiety that places children at physical and emotional risk. Social researcher, Bev Bourget*, suggests that exposure to ongoing tension and all forms of abuse (physical, sexual, psychological and emotional) in the home, creates an overwhelming, traumatic environment for the child that can cause irreparable damage to the development of the child's brain. The younger and the longer a child is exposed to such trauma, the greater and the more permanent is the damage to the child's brain development. She asserts "None of our children should be incubated in terror."

Older children, when upset, tend to act out their distress rather than talk about it. In a home where fearful silence and tension is the norm, children are even more vulnerable to repressing their feelings. Feelings of fear, anger, guilt, sadness, worry, confusion and ambivalence often get submerged. These reactions surface in other ways. Children know their parents are not able to deal with their hurts or even be aware of them at times. Because their parents are too tied up with their own miseries, children are forced to find indirect ways of expressing their hurts, getting the attention they need, in essence crying out for help. Any child could have some of these symptoms, but children from homes where abuse takes place are more vulnerable to excessive symptoms of stress.

Parents, extended family members, service providers and researchers have observed the following:

- Exposure to abuse in the home has a separate, additive effect to being abused oneself. One can expect to encounter more complicated traumatic responses from these children.¹⁸
- Internalizing behavioural problems (withdrawal, fear, anxiety, social awkwardness and shyness) can render these children invisible as they often go to great lengths to blend into the woodwork. Their symptoms of trauma are more likely to be missed by adults in their world as they are often considered "compliant and accommodating" children. Thus these children may be at higher risk for enduring problems.^{19,20}
- Externalizing behavioural problems (negative acting-out, aggression, destruction, defiance, disdain for authority figures) can lead to these children being negatively and sometimes inappropriately labelled (e.g. difficult to manage children, ADHD, conduct disorders). Seldom are their lives understood and put in context. Rather, negative feedback which leads to further erosion of their self-esteem and feelings of unworthiness is the norm.^{21,22}
- Problems with social competence and academic achievement are also evident.²³
- For 1/3 of all children witnessing violence, effects may last well into adulthood. It is well known amongst group leaders for batterer's groups that as many as 80% of the men had witnessed their own fathers abusing their mothers.²⁴
- A note of caution - not all child witnesses grow up to repeat their parents' patterns of behaviour, especially if they had access to early effective intervention. Dobash & Dobash found that only 12% of the batterers' siblings in their study chose to be abusive in their adulthood. It is important that we not participate in a self-fulfilling prophecy - once a child witness, always a batterer/victim.²⁵
- In fact, children are very open to learning new ways to express their feelings, develop positive problem-solving skills, and change their attitudes towards violence, male/female roles, etc. One study found that prior to participating in a group counselling program, 1 in 4 of the children believed it was okay for a man to hit a woman if the house was messy. After group counselling, none of the children believed this.²⁶
- Lastly, it is imperative that we all understand that the most significant factor in building a child's resiliency against the effects of any type of trauma, including child witnessing, is when the child has one strong and enduring emotional bond with at least one significant adult in his/her life.^{27,28,29} **Each of us has the potential to be that ally in a child's life.**

The Relationship Between Woman Abuse, Divorce and Custody and Access Issues:

Historically, there has been excellent clinical and research work done in the areas of both woman abuse and divorce. They have, however, tended to be theoretically mutually exclusive until more recently.³⁰ Both bodies of literature have a great deal of wisdom and insight to offer us in our attempts to understand the effects of divorce, separation and abuse on children and their parents.

The early literature examining marital conflict culminating in separation and divorce often promoted a practical set of guidelines to parents and professionals to help minimize the effects of the conflict and resulting separation on children.^{31,32}

For some couples the conflict was non-violent and time-limited to the transition period just prior to the separation and resolving itself typically within the first year. For these couples the ensuing advice offered a welcome organizing framework through a difficult period. Parents were advised to, whenever possible, keep their "angry words" away from their children. Disagreements, especially about discipline, were thought to undermine children's sense of safety and security. Parents were encouraged to each maintain a strong individual relationship with their children as a way of helping them through the interparental conflict.

If parents could not reasonably resolve the marital conflict, it was generally felt that the children would be better off with two happy, divorced parents than two bickering, married parents. Parents were expected to become sensitive to the impact of their marital conflict on the children and seek professional help if it continued for long. Quite often divorce was seen as liberation from conflict. Once the dust settled separating couples could move, with some effort, into a cordial relationship based on their mutual love and sense of commitment to their children.

This is sound advice even today, and for the majority of divorcing parents in Canada, they may well be able to manage this ideal given that most are able to work out their custody and access issues outside of the court arena, on their own or with the help of a skilled mediator/counsellor. These are the types of divorces for which mediation was originally developed. According to the Department of Justice statistics, only 3.8% of divorces involving custody and access issues are ultimately resolved through the courts.**

However, for a small minority of divorces the "no fault" analytical framework does not apply. The above framework does not work in cases where conflict is severe and most likely abusive.³³ For women leaving an abusive relationship with children in tow, conventional wisdom is fraught with danger.³⁴

There are many problems women and children face in our current system of law. Literature on gender relations suggests that one of the greatest obstacles facing women, particularly in the spheres of medicine and law, is that the standards against which women are judged are those of the "reasonable man".³⁵ Since both of these systems are deeply rooted in tradition with explicit decisions based on precedent, one can expect change to be painstakingly slow. Thus, when women turn to the courts for protection for themselves and their children in relation to custody and access issues, they face formidable biases as outlined in an overview paper published by the B.C. Institute on Family Violence.³⁷

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1. Courts and custody evaluators often undervalue mothering and overvalue fathering, with different standards being applied to their parenting skills.
2. Violence by men is typically minimized, while a woman's response to violence may be pathologized.
3. Courts and custody evaluators tend to ignore the existence of marital violence and do not see it as creating a risk for children who must continue contact with the abusive parent.
4. Courts are increasingly turning to joint physical custody and mediation to solve contested child custody/access cases, half of which are estimated to involve some form of family violence.
5. The average man is much better prepared, financially and through work experience, to succeed in adversarial proceedings and is more likely to gain some ground in a custody and access case than the average woman.
6. The prevalence of false allegations of abuse has been portrayed as very much higher than is in fact the case, and courts and custody evaluators have been disproportionately influenced by this belief. In fact, statistics show that they are raised in only 2% of contested divorces. Of this 2 % of cases, such allegations are found to be true 92% of the time.***³⁶
7. Standards and guidelines provided for custody evaluators typically apply only to cases where violence is not a factor.

Canada lags behind in its legislation and in its institutions as compared to a number of other countries, such as New Zealand, Australia, England, Wales and the United States when it comes to the specifics of custody and access disputes where woman abuse is present. The recent hearings held across the country in relation to the Report of the Special Joint Committee on Child Custody and Access did little to rectify this situation. Both in the hearings and in the report, the resistance to identify woman abuse as a significant social problem was remarkably evident. The battle between fathers' rights activists and woman and child abuse advocates became even more entrenched. The tireless efforts of professionals and advocates, who spent weeks and months preparing their briefs and organizing their presentations only to be met with great suspicion and disrespect, was disheartening.

An earlier report, prepared by the Canadian Panel on Violence Against Women in 1993, advocated strongly for legislative and institutional reform.

Access is often an entry point for ongoing threats, intimidation and harassment of estranged partners and their children. Courts need qualified child assessors who are knowledgeable about violence against women, and they need community services such as supervised centers that allow for some restrictions and provide safety during visitation or access exchange. There was broad support for a review of the Divorce Act and all provincial and territorial legislation dealing with custody and access. An amendment to this legislation should explicitly state that violence by one spouse against another is relevant in determining custody and access issues.³⁹

This view reflects the progressive legislation being implemented in several countries. In particular, New Zealand's *Domestic Violence Act, 1995*, highlights a number of important principles in relation to violence issues. First and foremost their *Act* has given a clear definition of violence with a broad scope that includes same-sex partners, close personal associates and family members. The term "violence" includes "physical abuse, sexual abuse and psychological abuse including intimidation, harassment, damage to property, and threats of physical, sexual or psychological abuse."³⁸

Their legislation permits a person to apply for a protection order that clearly articulates the following:

The respondent must not:

- (a) Physically or sexually abuse the protected person; or
- (b) Threaten to physically or sexually abuse the protected person; or
- (c) Damage, or threaten to damage, property of the protected person; or
- (d) Engage, or threaten to engage, in other behaviour, including intimidation or harassment, which amounts to psychological abuse of the protected person; or
- (e) Encourage any person to engage in behaviour against a protected person, where the behaviour, if engaged in by the respondent, would be prohibited by the order.

The legislation also expressly prohibits persons against whom a protection order is made from possessing weapons, and accords the courts considerable powers in ordering respondents to attend anti-violence counselling and programs. Abused spouses or their children may apply to the court to attend a program, which may include counselling. In addition, when a court makes a protection order, it is required to direct the respondent to attend a specified treatment program. In these cases, the program provider's fees and expenses are covered by the government.⁴⁰

In March, 1998, Nicholas Bala and his colleagues put forward 24 specific recommendations for reforms. These are listed in [Appendix E](#).

Additionally, the Joint Committee on Domestic Violence, in its August 1999 report to the Attorney General of Ontario made a compelling case for a comprehensive overhaul of the present service delivery system. In response to the May/Isles inquest and its 213 recommendations for an improved system's response, the Joint Committee outlined 16 critical strategies for taking action against domestic violence. These are listed in [Appendix F](#).

As well, in an exciting project**** facilitated by the staff of Education Wife Assault, more than 90 immigrant and refugee women have participated in focus group research, informing us of the unique and complex barriers they face within the family court system. The preliminary recommendations may be viewed on EWA's website at www.womanabuseprevention.com.

If Canada adopted all of the above recommendations and critical strategies we would go a long way in ensuring safety and security for woman abuse survivors and their children, as well as accountability and rehabilitation for the abuser.

Method:

Participants for the project were contacted using a purposive snowball sampling technique. Members of the Steering Committee recruited women from their own work settings and through other service providers in the community. The sample was purposively, rather than randomly selected. Once the initial contacts were made, women were asked to refer other women they knew of to the project who self-identified as woman abuse survivors and who had some experience related to custody and access issues in the family court system.

In consultation with the Steering Committee members, the consultant wanted to capture a glimpse into the day-to-day realities of woman abuse survivors and their children in the aftermath of a separation/divorce. Due to limitations on funding, a decision was made to meet with women in a group context rather than conducting individual one-on-one interviews.

Seven focus groups were conducted between September 1998 and January 1999. The smallest group had 2 women and the largest group had 14. The average group had approximately 7 women, thus allowing ample time for participants to share their views. Initially the group began with 2 hours but after the first group it was evident to the co-facilitators (myself and the project co-ordinator) that a minimum of 3 hours was needed in order to complete our goals. The women self-administered a 2-page questionnaire that took approximately 20-30 minutes of the group time, leaving 2 1/2 hours to cover the focus group questions. In addition to the 52 focus group participants, there were also written submissions and individual interviews with women who weren't able, for a variety of reasons, to participate in the group.

The focus group format seemed ideal as it allowed the co-facilitators to draw on experiences of a larger group of women in a short time frame, but more importantly provided women with an opportunity to come together to express their experiences, both similarities and differences.

The basic format used for the focus groups included introducing the participants to one another. Once introductions took place, three simple warm-up exercises were conducted to assist women in connecting with one another, articulating a basis of unity as women and as mothers and most importantly, to quickly allow the participants to focus on their shared experience of intimate abuse. In popcorn style, the women were given 3 to 4 minutes to call out the first words that came to mind when they heard three questions:

When you hear the words "custody and access", what are the first words that come to mind?

When you hear the word "abuse", what are the first words that come to mind?

When you hear "children exposed to abuse", what are the first words that come to mind?

This turned out to be an excellent way of having the participants immediately break their isolation, as each woman came to recognize her story in other women's voices.

The women were then asked:

To think of three things that have been helpful to them in the court process.

To think of three things that have been unhelpful to them in the court process.

This was followed by:

"Suppose you had a friend who was just starting this process, what advice would you give to her?"

The last question centred on the participants' "Wish List":

If women had the power to change the family court system to make it more responsive to their families' needs, what would they suggest?

This proved to be a most powerful exercise as the women recognized the individual and collective knowledge, wisdom and expertise that existed in the group. By placing herself in the role of mentor, each woman was able to re-examine her choices in light of what she knows now, and take some comfort in knowing that other women may benefit from her experience.

The facilitator's ability to use all of these questions depended on the size and the dynamics of the group. Each focus group took on a unique style of its own depending on the blend of the participants. The smaller groups tended to offer more individual time for women to share their histories, whereas the larger groups tended to focus more on suggestions for change. As mentioned earlier, this format turned out to be an ideal method to look at key issues women are facing. Most women found it to be a strengthening experience. Focus groups were audio recorded and transcripts were typed for every group to allow for more thorough analysis and summary.

Recent research suggest that focus groups have a number of advantages over more traditional quantitative research methods. First and foremost they offer women an opportunity to voice their experiences, concerns and strengths that historically have been neglected for so many. The primary goal of the project was to access information from the "experts", those who have been in the centre of the process and thus have a central view of the system. Secondly, focus groups give women the time to think about their experiences and put them into words. As each woman speaks, others are able to fine-tune their own thinking, and note where they think differently and similarly. Thirdly, the experience of abuse most often occurs behind closed doors without witnesses and in isolation. Thus, it is crucial that survivors get the opportunity to not only tell their story but also give their opinions and articulate their wishes in connection to others. This then becomes a reparative experience as the effects of trauma can only be healed in relation to empathic others. In social justice research thinking, it is never acceptable to merely collect data in a vacuum. One must do so in a way that benefits the participants and places their experience in a central role within a social context. While the facilitators guided the group with the questions, it was always the participants who articulated the content with facilitators only intervening to probe for greater clarity.

Highlights From the Questionnaire:

Description of the Participants

In total 52 women, ranging in age from 26 to 49, participated in the project.*****

The participants were predominately white and all were in heterosexual relationships.

The participants had on average 3 children per household ranging from 1 to as many as 6.

The children aged in range from in utero (one woman who left while pregnant with her first child) to and including grown children, the oldest adult child being 27.

The length of the intimate relationship ranged from 1 to 27 years.

89% of the women described themselves as economically comfortable with 70% from middle income families and 19% from high income families **during their marriage**.

84% of the participants described themselves as low income **after their separation**. This statistic of dramatically reduced economic status for women and children is even higher than the national figures following a divorce. This reduction

is likely due, in large part, to the abusive nature of the relationships.

Description of Abuse

- 71% indicated they had been physically abused by their ex-partners.
- 17% had been abused severely enough by their ex-partners to require hospitalization.
- 55% stated that they had also been sexually assaulted by their ex-partners.
- 100% described being psychologically/emotionally abused by their ex-partners.
- 82% indicated they had been verbally abused by their ex-partners.
- Two women described predominantly financial abuse by their ex-partners.
- Two women indicated they had been spiritually abused by their ex-partners.
- 57% stated that their abusive partners had problems with alcohol and/or drugs.
- Over half of the assaults described occurred when the abuser was drunk or "stoned".
- 62% stated they themselves had been exposed to abuse in their family of origin.
- 88% stated that their children had been in their home while the abuse occurred.

When asked how often the children were in the home, the majority of mothers stated unanimously "too many", or "as many times as the abuse had happened".

- 79% stated their children had been directly abused by their ex-partners.
- 84% stated their children had been emotionally abused by their ex-partners.
- 51% stated their children had been physically abused by their ex-partners.
- 15% of the respondents' children had been sexually abused by their ex-partners.
- One child had been killed by his father who then committed suicide.

Contact With the Criminal Justice System

- For the majority of the participants there was no third party involvement (i.e. police) prior to their final separation.
- For those who did have contact, most had been assaulted several times prior to first involvement with the police.
- 36% stated that their partners had been charged with spousal assault.
- 12% served time in jail with sentences ranging from two days to seven months.

On average the respondents attempted to leave five times prior to a final separation, with answers ranging from once to "countless".

Turning Points

The following is a sampling of the respondents' answers to the question, "What was the final turning point in your decision to leave?" The majority of their reasons were related to their **children**, such as:

- "Threats to take the children away."
- "Birth of my son."
- "Being torn between my children."
- "After physically abusing me, he went on a drinking binge and drove off with my son."
- "Molestation of my son."
- "I didn't want them to grow up to be abusers or to be abused."
- "He wasn't going to change his controlling ways and I now had two children to take care of."
- "I left after the second assault."
- "Physical assault in front of my children and escalation of abuse."
- "My social worker told me that witnessing the abuse was harming my children."
- "I had to stand in front of the television so that my husband would have to hit me in front of our daughter. I knew that he would rather hit me in private."
- "My three year old son asked me, 'Why does daddy always yell at you mommy?'"
- "I had always believed that any Dad was better than no Dad, but then I decided that no Dad was better than a bad Dad."
- "I was aware that if I stayed I'd end up in an insane asylum or dead. I was coping less well, and the abuse was getting worse and worse. I was concerned about the well being of my children. I did not want them to be exposed to further abuse."

The other primary reason women gave as the turning point was related to their **level of fear**. Women described living with psychological and emotional abuse on a daily basis, but when it escalated to physical assault, the physical abuse became more severe and/or was directed to the children, this hastened their move to end the relationship permanently.

The respondents stated:

- "He threatened to kill me."
- "The whole family was constantly in fear."
- "He hit my daughter and drew a gun on us."
- "He threatened my life."
- "He threatened to take my children away."
- "Fear for my life."

"When he attacked me in my sleep, I knew I would never be safe again. The next morning I found a machete under our bed. Any ideas I'd had to work things out were gone."

Additional reasons given:

- "I came home from school one day and all of my belongings were gone as well as my child."
- "I joined Al-Anon and my self-esteem increased."
- "The mental abuse was relentless."
- "I knew all the abuse was making me ill."
- "It was the right thing to do. After the last separation it wasn't getting any better."
- "Turning 40, married 20 years - where was I going."
- "He was removed from the home." (by the police)
- "I caught him in a bold faced lie and I faced reality."

"I had just gotten news of my illness (thyroid cancer) when he physically assaulted me for the first time. Prior to that, he had been emotionally and mentally abusive. For him to attack me at my weakest moment was the last straw."

Contact With the Family Court System - What the Respondents Said

Participants responded to a number of questions related to their involvement with the family court system.

The average time frame to resolve a custody dispute was 3 1/2 years.

For those participants still in the middle of a custody dispute the time ranged from 6 months to 6 1/2 years and "still counting".

Participants typically attended court 5-10 times with a range between 1-23 times.

18 participants had their court cases adjourned several times (most often with little, if any, notice).

43 women collectively spent approximately \$670,000. not including the costs for 9 of the participants who accessed legal aid.

The costs for each case varied from \$2,000 - \$90,000.

In response to the question "To whom was custody awarded?"

74% were awarded sole custody with unsupervised access to their ex-partners.

20% of the mothers were given joint custody.

The remaining 16% of the participants had varying situations:

- 1 woman had no access to her children and was undergoing an assessment.
- 4 ex-partners had been given supervised access (1 participant had to provide the supervision herself).
- 1 ex-partner had sole custody and the participant had access.
- 1 ex-partner had no access to the children at all.

Participants appeared before several judges throughout their case - on average 4 judges per respondent.

Helpfulness...

18 women were ordered to attend mediation. Only a small minority found it helpful.

24 participants had been ordered to have an assessment. 69% found it to be a helpful process.

82% of the respondents found the access visits very difficult due to ongoing harassment and abuse.

47% of the respondents found their judges' responses to be helpful.

62% of the respondents found their lawyers to be helpful.*****

62% of the women sought counselling services and all of them were highly satisfied with counselling received.

The only dissatisfaction expressed in relation to support services were from those participants who had tried to access Legal Aid but were not eligible.

52 Women Speak Out - The Focus Groups:

The women were generous in their willingness to participate in this project. It was not easy for them to organize their schedules to attend the sessions, yet they did. Many more wished they could come but the overwhelming demands of dealing with abusive ex-partners, raising traumatized children, keeping their jobs, running their homes, coping with their own experiences of fear, frustration and depletion, all while they were immersed in the unfamiliar territory of a custody and access court battle, made it impossible. Hopefully, their experiences are captured by those women who could attend. The enthusiasm for the project was contagious and resulted in much lively discussion, often fluctuating between laughter and tears.

One woman in particular needs special acknowledgment. Hers was a case of long-term emotional abuse and demonstrates the lethal potential of such cases. Her story of losing her child, especially in the manner she did, is every mother's worst nightmare. In the first unsupervised visit with his abusive father, her 3-year-old son was strangled and burned to death. Her ex-partner died in the same fire. She lost everything most precious to her. That she is willing to share her story and help us learn from her pain is remarkable. Though she met with the consultant in individual interviews rather than as a focus group participant, her voice is heard in this project along with the others.

A number of central themes emerged as the women voiced their experiences with their abusive ex-partners, their children, their extended families and friends, but mostly the women spoke of their relationships with all those connected to the family law court system - the lawyers, the judges, the assessors and the child protection workers. Over and over again women spoke of these three central themes: credibility, accountability and revictimization.

Credibility

As is often the case, many participants had little, if any, "evidence" to prove their claim of abuse. Most had lived their lives privately, behind closed doors, protecting their partners from public scrutiny.

"You are always covering up. I would never think of myself as a liar but...you become a liar because you are always covering up to your friends. It's amazing how many places you can get hurt, 'I tripped on the bathroom floor and hit my head on the door knob.'"

"You are constantly expecting to die. It's not a fear of death anymore. It's a fear of **when** it is going to happen? The fear makes you isolated from your friends."

"When you're going through abuse you cover up from your family and friends. You become isolated. You may still see them sometimes but emotionally you're not connected any more because you don't want them to find out what's happening. When I finally split up from my husband and I would see my friends they would ask, 'how's...?' and I would say 'Well we're not together...' 'Oh, but I thought you were so happy after all that time.'"

"If you're not telling them, then they are confused. They might see what they think is some sort of abuse but you're denying



it. What sort of chance do they have? They can't say - Well I know he's abusing you. You're telling lies."

"He never did anything that anyone could see and he never treated me like this when we were out."

"I was in no position to fight (in the court house). I did as much as I could. I was so upset whereas my husband looked so calm, cool and attractive."

Without documentation, women described how often their experience would be reduced to a "he said, she said". When it came to whose story was more believable, most often the women were the losers in the credibility contest.

"These men know how to manipulate. They spent their lives manipulating so they could make a psychiatrist think he was crazy."

"Actually, it's funny because we're probably some of the most competent people because we've had to develop a lot of different skills to deal with these men."

"I think that's why we get into trouble in the legal system because they present the nice side of themselves (Jeckel/Hyde) and the lawyers are afraid to attack them because they might very well be a nice person and that the woman is making it all up for revenge. It takes another year to find out that 'yes' this guy is really corrupted (and was before)...but now the rest of the family is bankrupt and emotional basket cases."

Sometimes it took a while for women themselves to break through their own denial and trust their experience.

"I never charged him with abuse or anything. I was too scared. But instead I found a really good counsellor. It took me two years of counselling before I could actually admit the fact that I had been terribly sexually abused. I thought sexual abuse was for a child and how could I, as a grown woman, be sexually abused."

Even if the women were eventually successful in "proving their abuse", they still had an uphill battle to convince the courts that their children were 'at risk'. Armed with misinformation, vulnerable to dangerous myths, and lacking in specialized training, many of the professionals the women were exposed to believed variations of the theme, "**Just because he abuses you doesn't mean he's a bad father.**" The focus group participants take issue with this position. They see the harm to their children and deal daily with the effects of direct abuse and/or exposure to abuse.

"I have a 14 year old son. Unfortunately, he's a carbon copy of his dad. All my kids are in intense therapy right now but he is the most needy, the most damaged. Difficult to handle because he does act out. He does use threats and fear to manipulate people. We're trying to teach him another way but because of his age, it's difficult."

"Once my son informed his father that he had a soccer game and could not go with him that weekend but could go with him the following Thursday. His father came through the front door and took everything that belonged to my son and threw it from his house. All his games, all his toys, all his clothing. My son had a big aquarium for his frogs and tadpoles and he had nurtured them along for 3 months. His father smashed it against the wall and killed all the frogs and tadpoles. He got into his car and left. On his way home, he called the police and said that I had assaulted him."

"Our second son has threatened suicide. He's 9 years old and he's threatened suicide, he hates the world, everybody hates him. He's had a very, very difficult time with this break-up. More so than the other two."

The participants described many instances of less overt ways of harming children - for example, undermining the mother's family routines and generally making life unpredictable and chaotic for the mother and her children. Visits were unannounced, children were dropped off too early when no one was at home to take care of them, or children were dropped off hours late making mothers sick with fear for their children's safety. Children would be forced to go on visits when they didn't want to, sleeping and eating routines would be disrupted or deliberately undermined to upset the mother, and children would return home not dressed properly. Lastly, women had fears about inappropriate parenting by their ex-spouse, including leaving the children unsupervised, or even worse being drunk or stoned while the children were in his

care. Some children were prevented from calling home to their mothers during visits.

Some children disclosed abuse after the separation but mothers were tormented about how to handle it. A 'catch 22' situation was the norm for mothers. They were in a lose/lose position. If they reported their concerns for the children's safety, they might face losing custody altogether if accused of being an "unfriendly parent". If they didn't report their genuine concerns and it was later discovered by CAS or other professionals/adults in their children's lives, they might be charged with "failure to protect", and lose their children. To complicate matters further, mothers are desperate to avoid being charged with "false allegations". **This is a crazy-making situation.** The women in the focus groups look to us for explanation in these inconsistent and unjust matters. This leads us to the next theme that was frequently raised in the groups.

Lack of Accountability

Many participants recounted endless stories of violated agreements with few, if any, avenues to address them. Most were able to articulate the fact that this was the strategy many of their partners used to **continue** the abuse. Once a woman leaves an abusive relationship, the abusive partner has fewer opportunities to control her. Frequently, he ends up using the children as a way to continue contact and control. Abusive men often threaten to obtain custody or pressure the woman for joint custody.

In this study, although most of the participants obtained sole custody, it was not without a lengthy court battle, which drained the women of their needed financial and emotional resources. Abusive men historically have used the family court arena as a legitimate extension of their "fist", as a way to attack her mothering skills, to criticize her domestic skills and to intimidate her into returning to him **for fear of his threats coming true** - 'to ruin her', 'to kill her and/or the children', 'to kidnap the children', and/or to 'prove her an unfit mother'.

As a consequence of surviving an abusive relationship, some women are initially unable to present an unqualified picture of stable mental health and consequently **the woman abuse survivor's parenting capacity is the one in question.** On the other hand, abusive men often present with more outward stability on the surface. The family court arena provides him with another forum to discredit his partner and redirect the focus of attention away from his abusive behaviour. There is no doubt after listening to the participants' stories that this dynamic contributes to decisions regarding custody and access that fail to protect mothers and their children, sometimes placing them at even greater risk.

"I married young and only stayed with my husband for a couple of years. There was some physical abuse but mainly emotional and verbal. Just to give you one example, he would hold the baby in front of him to take a puff of his cigarette and blow it right in her face. You know, this sort of thing, and at the time I was so young I didn't know what to do about it. You just keep hoping it's going to get better. But finally I left him and I took my daughter with me. Well, my husband applied for custody. My daughter was only 22 months old. My husband's parents got involved and they paid for his legal fees. All of them, they basically just lied, they all told lies about me as a mother and the custody was actually granted to my husband. Even he was stunned. He said he had no idea he would win the custody case, he had just wanted to hurt me. My husband had to move in with his parents since she was 22 months old. Social workers went right to my house afterward and they took her from me right then and there. They took every piece of clothing, I wasn't allowed to keep anything, not her booties, nothing. Everything had to go."

This mother lost custody of her baby even though she had been the primary care giver, because the courts chose to believe the lies that the grandparents and father had told. It would take this participant another 26 months to get her daughter back and another three years to successfully have access denied to the grandparents who were continuing to lie about her and

undermine her parenting.

"Yes, and you just live with this fear that you can just lose your child. It's terrible, and when you do, you just go crazy. I mean I literally had my daughter snatched out of my arms screaming."

"A lot of women don't tell about abuse because they are afraid they are going to lose their children if they talk."

"When I think of the abuse and how I felt when I was there, it's like the epitome of low. Depressed was not the word. I was the scum beneath scum. I felt like I had no purpose."

"It was just a matter of when it (her death) was all going to happen, you know, not if."

"Your biggest fear is that you're not going to be believed because people don't want to believe that that's really happening."

"My ex acts as his own lawyer, which means my children and myself have to be interrogated by this man. I'm being subjected all over again by this man, and it's wrong. I don't think an abusive man has a right to interrogate me at a court trial while I have to be in my best place and he knows exactly what buttons to push."*****

"My lawyer said that the court (the judges) won't look at me as being a good person because I abandoned my child. I said, 'No, I didn't. My ex manipulated my son saying that I abandoned him.' I didn't abandon him because he took my son away. When I left he hung onto him. When I tried to leave he said 'You go upstairs.' to my son, and he forced me right to the door and said make sure I get the hell out of there. I was forced out without the child. I see him once a week now, and every time I see him I have to fight to get him to return (to his father's) and now my son is suffering. He's having nightmares, he cries every time that he's with me because he wants to stay with me but he can't. Even with the court document, the police told me it is hard to prove when a man is standing there saying 'I gave him to you last weekend.' and you're saying 'No he didn't, it's this weekend.' Prove it? The police don't have access to all the custody papers. They have it for all the criminals but they don't have it for family law and they don't really want to get involved."

The focus group participants expressed incredible frustration at the absence of a legal tool to effectively hold their ex-partners accountable. This leads us to another important theme.

Revictimization

Women frequently spoke of the frustration, fear and disillusionment they felt when confronted with the family court system.

"I was so innocent when I entered that court room. I was completely in their hands."

"The illusion of what I thought the court system was, helped me get away."

"My assessor (social worker) was told about the abuse but she did nothing. She did not refer to it in her report. I felt very let down by her and the children's lawyer. I felt very betrayed in the whole process. It was a farce."

"The judge ordered him to supervised access but he got kicked out because of his abusive behaviour toward the worker. The Supervised Access Centre sent a letter to court explaining their decision. The judge gave him another chance if he apologized. He refused. The judge then let his mother do the supervised access. I did not want this because his mother could not control him either."

"You get victimized by these men and then you go into the court system and they try to victimize you too. You have a choice whether you're going to let them or not, but they do try to victimize you all over again. When it's taken you that long to build up the courage to get some backbone back again just so you could go through this process."

When asked what were the first words that come to mind when you hear the words 'custody and access', women responded

when it came not even having a chance to speak or if they did, rarely did they feel understood or listened to. So often they felt unprotected, unsure and disempowered by the process.

"When you've been abused you tend to be equally intimidated if you have a lawyer who's empowered, who sometimes talks down to us...and I come out of those meetings feeling like I'm just an idiot."

"And they blind you with what they say. Oh, I can get you a restraining order or get you this or get you that. Big deal, it wasn't happening. Then he went for the separation agreement. Get your husband out of the house. Well that's going to take two weeks and meanwhile he's threatening me 24 hours a day."

"Now he was a man (her husband) out of work himself so he got Legal Aid while I had a job, so there you go. That's how he was killing me...He went into court to fight me on a custody trial and it's \$25,000 and that's it. And you pay or you lose your kid. So we did all that horrible stuff. I have to say this, the system abused me more than my husband did. He was so brilliant knowing all those little loop holes and I had some poor legal counsel, so...

Women sometimes found themselves going to four or five lawyers before they found one who could help them.

"My first lawyer, at the time, had nothing to do with family court. He was involved with property. Well I didn't know. I just went to one who had been referred to me. He didn't tell me himself. We went through the whole proceedings, went through court, got my daughter taken away, then I find out he isn't even a family lawyer."

"His lawyer stood up and told a lot of lies. My lawyer said nothing."

"My lawyer said that the abuse didn't need to be mentioned and that the court didn't like to hear about these kinds of things."

"One lawyer told me that I couldn't afford to go through with this case and that I should sign what he wanted right now."

"Your own lawyer can use custody and access to pressure you into making compromises on your property in order to facilitate your separation. And so you will go for it in order to keep your child."

"You think this is the day you're going to court. You're actually going to get something done. And they keep you in the hall and pressure you and pressure you. They want to go in with it already sorted out."

Women felt strongly about the need to have a place where they could go and get the information they needed - a place where they could learn about the process and make decisions based on knowledge rather than fear. They ended their groups by passing on their advice to other women. These are their words:

Get a good lawyer who is familiar with abuse.

Have a good, qualified network of friends.

Have another friend you can confide in. If necessary one that can take you in if your husband attacks - just a real good friend.

Document everything. I wish I had done that.

Personal safety alarm.

Tell the truth.

Don't feel sorry for them, because that's what they try to do to you.

Be careful with friends - you've got to make decisions for yourself.

Minimize your contact with him so you don't get sucked in.

Have good contact with your personal doctor.

I'd start out by telling them (my doctors) I am an abused wife and I have difficulty expressing myself. I find they are very understanding.

I think you keep so much secret in your life and I think with every woman there will be a time when she realizes that this is it. I've got to do something about it.

Be strong, have faith in yourself.

You deserve the best.

It is important to say that the focus group participants were anything but the negative perception often painted of abuse survivors. Their strength was inspiring individually and collectively. How they manage to advocate on their children's behalf, hold their jobs, run their homes, all the while still coping with abusive ex-partners and the emotional and financial stress of a custody access battle is nothing short of a miracle. Despite the many negative experiences the women were subjected to, they still found reason to be optimistic and hopeful. Their comments about what worked for them in the process are a reminder that one person **can** make a difference in a most positive way.

"When the Crown was discussing the process of criminal court, I was really afraid for a variety of reasons. Mostly I was afraid to label myself an abused woman. He said, 'You don't really have a say.' I felt relieved that the Crown was going to go through with it and it wasn't really my responsibility. It was as if he was saying, 'We are going to take care of this, don't worry.'"

"My family supported me the whole way through - six and a half years - and they're still there for me."

"My counsellors were a tremendous source of support. The co-facilitators for the Phase II group (Family Services Durham) and the outreach counsellors at The Denise House believed in me and that made all the difference."

"I had a very positive experience with my assessor. She made it clear that she believed me. I didn't have to prove myself to her."

"I had a very positive experience with the judge on my case. My ex was giving tales of woe to the judge. The judge didn't buy it. He said, 'You pay her everything you owe her in the next five days or you'll be going to jail.' He (judge) really told my ex what he thought of him. He thought he was a 'snake' for not doing right by his children. The judge pointed out a lot of discrepancies in my ex's logic. The judge told him he needed to 'stop feeling sorry for himself and do right by his kids.' Having a judge who saw my ex for what he really was, was great."

"The judge I had really listened to everything that was presented to her. I wish I could have spoken directly to her myself but knowing that she tried to understand even without the whole story was validating. I could feel her compassion for me."

The focus group participants recommend the following in situations where abuse is disclosed:

An immediate abuse assessment be undertaken by an abuse expert to establish the validity of her claim.

If the likelihood of abuse has been established, then an immediate risk assessment be done to assure the joint safety and security of the mother and her children.

This can be accomplished by the implementation of the following steps:

Automatic removal of all weapons and licenses.

Automatic supervised access or no access at all if children do not feel safe/comfortable.

Automatic sole custody to the mother.

Automatic referral of the abusive man to a specialized counselling program that deals with both abuse issues and parenting concerns. This should occur prior to access to the children.

Establish a process to assess the indicators of effective change that an abusive man would have to demonstrate prior to a change in access. Evaluating changes made by the man should be done in consultation with the woman abuse survivor.

Form a partnership between woman abuse survivors and key service providers in Durham Region to develop a woman's resource centre dealing specifically with custody and access issues. Such a centre could provide all of the information, support/resources that a woman and her children might need to effectively deal with the issues raised.

Appendix c

SPECIAL ISSUES IN VISITATION DISPUTES WITH ALLEGATIONS OF DOMESTIC VIOLENCE

Issue	Normal visitation dispute	Visitation dispute with allegations of abuse
Central issue	Promoting children's relationship with visiting parent; co-parenting	Safety for mother and children
Focus of court hearing	Reducing hostilities; setting schedule	Assessing lethality risk and level of violence; protection
Assessment issues	Children's stage of development, needs, preferences Parenting abilities	Impact of violence on mother and children; developmental needs Father's level of acceptance of responsibility Safety plan for mother and children
Planning for future	Visitation schedule that meets needs of children Mediation services	Consider suspended, supervised, or no visitation Specialized services and assessment with knowledge and training about domestic violence
	Divorce counselling for parents and children Independent assessment/evaluation	Supervised visitation centre Coordination of court and community services
		Well-informed lawyers, judges, mental health and social service professionals.

Appendix d

SPOUSE ABUSE IDENTIFICATION QUESTIONNAIRE

- Were either you or your spouse physically abused in childhood?
- If so, in what way?
- Were either of you emotionally abused during childhood?
- Was there a history of violence in either of your families?
- If so, was the violence directed at the children, or was it directed at one parent by the other?
- Does either your spouse or his/her parents abuse alcohol? Do you? Do your parents?
- Does your spouse treat his/her parents roughly or disrespectfully?
- Has your spouse ever hit his/her parents, brothers, or sisters?
- Has your spouse ever threatened to harm you?
- Are your spouse's problems usually blamed on you or others?
- Have you been attacked or blamed when your spouse got angry?
- Are you afraid of your spouse's temper?
- When drinking, does your spouse get rough or violent?
- Has your spouse ever hurt you? When? What happened?
- Did your spouse ever hit a former spouse or lover?
- Has your spouse ever deliberately hurt or killed a pet?
- Does your spouse have a Dr. Jekyll and Mr. Hyde personality?
- Do you usually give in to settle arguments?
- Are your children afraid when your spouse is angry?
- Have you felt free to invite family or friends to visit you?
- Are you socially active or more socially isolated?
- Does your spouse listen in when you're talking on the phone?
- Does your spouse insist on going everywhere with you?
- Is your spouse suspicious of your every move?
- Is your spouse an extremely jealous person?
- Has your spouse ever forced or pressured you to have sex even though you did not want to?
- Have you ever called, or thought of calling, the police because an argument was getting out of control?
- Have your neighbours or friends ever called the police because of your situation?
- If the police were called, was your spouse arrested or given a citation?
- Does your spouse ever threaten to take the children where you could not find them?
- Did this ever occur?
- Do you feel safer when I talk with you alone?

Cited in: "Victims of Spouse Abuse" by R. Geffner & M.D. Pagelow, 1990, in R.T. Ammerman & M. Hersen (Eds.), *Treatment of Family Violence: A Sourcebook* (pp. 113-135), New York: Wiley.

Appendix e

SPOUSAL VIOLENCE IN CUSTODY AND ACCESS DISPUTES: RECOMMENDATIONS FOR REFORM*

1. Legislation should specifically acknowledge the significance of domestic violence to custody and access issues.
2. Domestic violence should be clearly and concisely defined.
3. Safety of the abused parents and children should be a paramount concern.
4. There should be a presumption that custody should not be awarded to the perpetrators of domestic violence.
5. The "friendly parent" presumption should not apply in cases where there has been domestic violence.
6. Legislation should make explicit provision for supervised access and exchange.
7. Legislation should allow a court to require perpetrators of domestic violence to undertake counselling or treatment as a condition of custody or access.
8. Legislation should allow for non-disclosure of the abused spouse's residence.
9. Legislation should recognize that domestic violence may justify a variation to a custody or access order.
10. Flight from the matrimonial home for fear of safety should not be a factor in custody and access disputes.
11. Legislation should place restrictions on the use of mediation in cases of domestic violence.
12. There should be a presumption against joint custody in cases of domestic violence.
13. Courts should be allowed to set aside previous agreements consented to because of domestic violence.
14. Cases involving domestic violence should have priority for legal aid representation.
15. Unrepresented parties in domestic violence cases must be provided with appropriate supports.
16. Service providers must receive specialized training to deal with domestic violence.
17. Broad-based media campaigns are needed on the effects of spousal violence on children.
18. Provincial and territorial legislation should provide for expeditious and inexpensive access to the courts in cases of domestic violence.
19. Provincial and territorial legislation should provide for expeditious granting of interim custody and access orders in cases of domestic violence.
20. Provincial and territorial governments should provide funding for women's shelters.
21. Provincial and territorial governments should provide programs for access and exchange supervision.
22. The importance of treatment and counselling programs should be recognized in provincial and territorial legislation.
23. Further research is needed on the effects on children of various custody and access arrangements in cases of spousal violence.
24. Legislation and programs dealing with domestic violence need to be monitored and evaluated.

Appendix e

16 CRITICAL STRATEGIES FOR TAKING ACTION AGAINST DOMESTIC VIOLENCE*

1. Ensure Access to Essential Victim Services in Each Court Catchment Area
2. Ensure that Children Exposed to Domestic Violence Have Access to Services
3. Study the Effectiveness and Improve Access to Male Batterers Programs. Support Innovation in Response to Male Batterers
4. Implement Standardized, Specialized Police Response to Domestic Violence Across the Province
5. Ensure Consistent Enforcement of Restraining Orders and Explore Strategies to Improve their Effectiveness
6. Reinforce Crown Attorney Leadership by Implementing Consistent Standards and Ensuring Accountability
7. Introduce Specialized Court Responses for Prosecuting all Domestic Violence Cases in the Province
8. Amend Legislation to Recognize the Effects of Domestic Violence on Children
9. Implement Standardized Risk Assessment and Safety Planning Tools Across the System in Ontario
10. Establish Domestic Violence Coordinating Committees in Every Court Jurisdiction
11. Introduce Mechanisms for Provincial Coordination of Domestic Violence Responses
12. Provide More Effective Education and Training on Domestic Violence for Every Sector of the Response System
13. Recognize that Public Education is an Essential Part of Ontario's Approach to Address Domestic Violence
14. Implement Accountability Mechanisms Across all Sectors
15. Implement New and Innovative Funding Strategies to Support Domestic Violence Initiatives
16. 16. Develop a Realistic and Attainable Plan to Fully Implement Domestic Violence Initiatives Over the Next Five Years



* Bev Bourget presented her findings at the Keynote Address in the Steps for Change Conference, the morning of March 23, 1999.

** An experienced family law lawyer, participating in the Steps for Change Conference, felt it important to point out to participants that this statistic may only reflect trial rates. It was her experience that many more cases are resolved against a backdrop of court (i.e. an application was started, then a separation agreement was negotiated using the interim order as a starting point.) It was also her opinion that many separation agreements are entered into prematurely, thus allowing a possible abuser liberal unsupervised access. This is not a good outcome in cases where abuse is present. Many participants shared this view.

*** A family law lawyer, participating in the Steps for Change Conference, challenged us to consider that just because the other 8% of the cases were not proven (a legal concept) does not mean they weren't true.

**** *Custody, Access and Woman Abuse: Immigrant and Refugee Women Speak*, Toronto, Draft 1: EWA, 2000.

***** Of the 52 women who participated in the focus groups, 50 women fully completed the questionnaire, while two respondents did not. This may have been due to the time pressure they felt to answer fully what turned out to be some fairly challenging questions.

***** It should be noted that several respondents reported going through multiple lawyers before finding one whom they felt understood and advocated for their position.

***** It is important to note that a Durham Region family law lawyer has been able to obtain a court order to prevent examination of the woman abuse survivor by a perpetrator of abuse.