

## Information Package Subcommittee

Throughout the two day working conference, it became evident that, although numerous pieces of information existed on community and court services available to women, there was no one piece of literature that dealt with the needs of women on a holistic basis. Survivors defined their need for a clear user-friendly manual about the options they could access within the judicial systems. They required a manual that would identify services available to support them throughout the process and the impact of their decision, i.e. criminal charges versus a restraining order.

Service providers, while they were clear on the impact the court systems had on women, expressed a need for clarification on the complexities of the legal system and it's limitations. Lawyers were unfamiliar with the community services that would support their clients.

This committee decided that we could incorporate existing materials into a comprehensive information manual about the judicial options with direct reference to the services in Durham Region relevant to each section. It is the philosophy of the committee that women are the best people to make decisions for their own lives if given accurate information and support and that many women do not wish their partner incarcerated, but simply want to be safe.

Initially, the committee developed a process and principles for manual development.

1. Use existing documents and update as changes occur.
2. Use portions of current manuals and "how to" books where copyright allows.
3. Maintain a list of acknowledgements.
4. Continually involve members of the focus group and other women to edit and critique.
5. Involve service providers and the legal community in the sections that are relevant to their work.
6. Include any current government policies and recommendations including May/Isles Inquest, Victims Bill of Rights, etc.
7. Refer to community protocols where applicable.
8. Prepare the manual in binder format as well as on disc in order to utilize templates so that it may be adapted to other communities.
9. Include complaint procedures where possible i.e. police, crowns, lawyers, judges, counsellors, victim services, etc.
10. Utilize community referrals that are in keeping with the standards of the Custody and Access Project and the Durham Region Woman Abuse Protocol.
11. The manual will be prepared in plain language to ensure optimal use.
12. The referral section of the manual will be prepared using a brief synopsis of the policy and mandate of each service provider and their fee for service.
13. Each portion of the manual will stand alone, in that each section will have its own referrals, definitions and the balance of the manual will not be required for its use.

The committee collected brochures, manuals and information from various web sites and began a review process. The collection of information was not limited to Ontario but extended to the United States, other Provinces, Australia and New Zealand.

After an extensive review of the literature, it was determined that although a great deal of information existed, the comprehensive information we wished to compile did not exist. Efforts began to create a new comprehensive manual that was user friendly. Given that this was no longer a cut and paste project, it was not reasonable to produce the manual through committee meetings. It was recognized that there should be one writer and that the committee would participate in the editing process and any functions beyond the writing itself.



The first step was to prepare a "how to" section on peace bonds. In the literature nothing existed that truly explained to a woman what she had to do. This portion was written by one committee member and edited by some of the other members along with a Superior Court Justice, a Justice of the Peace, a family law lawyer and an Assistant Crown Attorney. There was immediate response even by those who had not been involved in the working conference, acknowledging a need for this piece of information. The Peace Bond section is complete and is attached.

The next steps included creating an index for the manual itself and a list of terms, which needed to be defined. It was also determined that a questionnaire needed to be developed for community services with respect to their policies, guidelines and fees.

To this point of time in excess of 100 hours had been committed to the writing and revisions. This did not include the hours the committee had met, information gathered and reviewed, and the time other sources had spent editing the Peace Bond section.

The committee views this as an important piece of work that deserves continued attention. However, it was impossible to continue without funding for a writer and some support staff. It is hoped that the work begun by this committee will be continued in the next stage of the project, but with enhanced resources.

#### **INFORMATION PACKAGE SUBCOMMITTEE - MEMBERSHIP**

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**Additionally, we would like to thank the following resource people who contributed their time and expertise to review our work:**

##### **Justice Margaret Scott**

Superior Court Judge

##### **Detective Eva Reti**

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##### **Linda Kaye**

Justice of the Peace

##### **Kent Saliwonchwk**

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## **PEACE BOND**

**A PEACE BOND CANNOT BE ISSUED IMMEDIATELY BY A JUSTICE OF THE PEACE. THIS IS NOT AN INSTANT SOLUTION TO SAFETY.**

Some women do not wish to involve the police but want an extra reassurance that their partner will remain away. It may be important to show your partner how serious you are.

### **What is a Peace Bond?**

This is an order to keep the peace and be of good behavior for a length of time up to one year or 12 months. There may be additional conditions of the order, such as remaining away from a property, a business, a school, or remaining so many meters away from a person. This is an application made by a person who fears for their personal safety, the safety of their family, or the security of their property. This application is made before a Justice of the Peace or Judge under section 810 of the Criminal Code of Canada. The person who has been ordered into a Peace Bond will not have a criminal record unless they break the terms the Judge or Justice of the Peace has ordered.

The Section 810 order is registered with the police and put on their computer so if a call is made to the station the police will be aware that there is an issue of safety and be prepared to act quickly.

If the Peace Bond is broken, the person is charged with failing to comply with the bond and a trial will take place before a Judge.

### **Who can do this?**

Any person who fears for their safety or that of their family or who fears for their property may apply. You do not need to have lived with the person or had an intimate relationship. You simply must be afraid of what they might do to you.

### **What do I do?**

It is important to collect as much material as possible in order to present your case to a Justice of the Peace. Earlier we talked about what you should do while you are deciding. This is the same information you should put together now.

1. Put together the notes of the things that have happened that make you afraid and why. Sometimes it is helpful for a woman to keep a Journal. Your Journal may include many feelings and questions about your relationship. Those feelings and questions are helpful to you but are likely not helpful in court.

It is important to include all the facts ? what happened, the time, place, any damage, and any witnesses. It is important that you do not include feelings and questions unless you feel afraid. The court can only deal with facts.

2. Include each time your partner has hurt you, how it happened, and if you saw a doctor. It is always important to include the time, date, place and anyone who saw the assault or the injuries. Sometimes there are no bruises or marks. Keep notes anyway.

If it is possible, have someone take pictures of your injuries. Lakeridge Health Oshawa has a special Domestic Assault team who can help you. The nursing staff can take care of your injuries, and help you with a safety plan, as well as take pictures. It is up to you if you wish to take further action. You do not have to involve the police unless you choose to.

3. If you are getting phone calls that are upsetting to you whether the person speaks or not, take the following steps:
  - o Write down where you are getting the calls. (at home, at work, at a friends, at school etc.)
    - o Dial \*69. This will record the number you are being called from, the time, and the date. Sometimes a recording will tell you the number is not available. Don't worry. Write down the time, date, and anything that was said and
    - o Dial \*57. The information from this record will not be given to you but the police can get it with a warrant and the information can be used in court.
    - o If the person speaks to you, write down anything they say that makes you feel unsafe. Still dial \*69 or \*57 because that will give extra proof that the person has called you.
  4. If you feel you are being followed or watched, write down each time you see the person, where, and when. If someone else sees that person, also write that information down. It is even better to ask them to write it down for you.
5. Write down any time your partner threatens suicide or threatens to hurt himself in any way. Again, include the time, place, and date and what he has threatened to do.
6. Write down any weapons your partner has and where they are kept.
7. Write down anything wrong with access visits. Even though you may have a Family Court Order, your partner may use access visits to annoy or harass you. It is important to write down times, dates, what was said, and what happened. It is also important to include where the children were when this was going on.

This may be a Family Court matter and may have to be dealt with before a Family Court Judge. Speak to one of the legal services or your family lawyer to be sure you are doing the right thing.



**IF YOU FEEL UNSAFE AT ANY TIME, CALL THE POLICE ....DIAL 911**

This information may be helpful to the Justice of the Peace. A Justice of the Peace is available in most courthouses to hear your application for a Peace Bond. If you are unsure where you should go, call one of the shelters or crisis lines in your community.

You may wish to get extra advice before you meet with the Justice of the Peace to make sure you have included everything that is important. You may also wish to have a friend or counsellor to go with you to see the Justice of the Peace. A Justice of the Peace is not allowed to give legal advice or any advice about your rights but there are other places you can go for help.

Some of the places you can seek advice are:

**Ontario Legal Aid Plan**

(905) 576 - 2124

**Ajax Pickering Women's Resource Centre Legal Clinic**

(905) 426 - 1064

**Durham Community Legal Clinic**

(905) 728 - 7321

**Lawyer's Referral Service**

1 - 800- 268 - 8326

**Bethesda House**

local calls (905) 623 - 6050

long distance 1 - 800- 338 - 3397

**The Denise House**

local calls (905) 728 - 7311

Long distance 1 - 800- 263 - 3725

**Apple Community Project**

Crisis line (905) 427 - 4924

**There are also a number of community agencies that can offer support during difficult times. For other numbers, see the main directory of community services.**

In Durham Region the **Ontario Court of Justice** is located at 242 King Street in Oshawa. The telephone number is: 905-723-5251. This courthouse services all of Durham Region and a Justice of the Peace is available from 8:30 a.m. to 4:30 p.m. Monday to Friday.

**How long does it take?**

There is no immediate protection and usually a Hearing can take between three and four weeks, or sometimes longer. If the person's behaviour becomes worse during that time, it may be time for you to call the police.

**What do I need to do?**

When you go to see the Justice of the Peace, you will be asked to swear on a Bible or make a personal affirmation to tell the truth. The Justice of the Peace will review the information you give him or her and decide if there is enough information to make the person you fear come to court. Some Courthouses have forms that you can complete with this information. The document that is produced is called an Information and it outlines the complaint against that person.

The law says that if you are making a complaint against someone, all the information you have given to the Justice of the Peace must also be given to the person the complaint is against. This is called disclosure. All of this information is given to the Crown Attorney's Office for the purpose of disclosure. You do not have to have contact with the person but you will have to see him in court.

The Crown Attorney reviews the information and decides if the Crown Attorney's Office will become involved in your case. A Crown must decide if the case will be successful or if there is a "reasonable prospect of conviction". This decision is based on the information that has been received and on previous matters that have been before the courts. The Crown may ask you for more information because the case is not clear or there is not enough information. Different from a lawyer you might hire, there is no privilege or confidentiality between a victim and a Crown Attorney. A Crown Attorney acts on behalf of the community or the Queen and not on behalf of the individual.

If the Crown Attorney feels there is no "reasonable prospect of conviction" and they cannot become involved with the prosecution, you, your agent, or your lawyer, will be required to present your case in court.

A Justice of the Peace or the Court Clerk will tell you when and where you must appear in court. The first time you go to court it will be to set a date for the hearing. It may take several court appearances before a date can be set that will be good for all the people involved.

When a hearing date is set, you must attend and you must make sure all your witnesses and your evidence is present. If the Crown Attorney is prosecuting your case, it is a good idea for him or her to have all the information in advance. Include everything you wish to tell the court and a brief statement written by each of your witnesses as to what they will say. This will avoid surprises that could cause delays in court.

When you are preparing information it is very important that you are honest about the things that have occurred. Some women have called the police in the past but when the police arrived they were not totally honest with the officer because they were trying to protect the person. Maybe you are a little embarrassed about your behaviour. Remember, no one can be perfect all the time and you would not be taking this action if you were not afraid. When people are afraid, they do not always behave in a calm way. Remember that the person you are filing against knows many things about you and the things that have happened and will likely tell about those things in court.

If the person you have filed the information against disagrees with what you have said there will be a Hearing before a Justice of the Peace or Judge to decide if you are at risk. It will not be in front of the same Justice of the Peace because each person who stands accused must be judged by someone who does not have information about the case. This rule is to make sure that everyone has a fair trial.

### **How do I get ready for Court?**

It is a good idea to go with a friend or counsellor who will not be giving information or testifying in the courtroom. Real court is not like television and witnesses are asked to wait outside. It is important that witnesses give the court information based on their own memory, and are not influenced by what others have said.

Try to get a good sleep the night before court. If you have children, make daycare plans for the whole day because there is no way to be sure when you will be finished in court. Dress comfortably but respectfully, just as if you were applying for a job. Arrive at court a little early so you have time to speak to the Crown Attorney. It is a good idea to call the Crown's office in advance to find out who will be in that court and speak to that Crown personally before that day. Crown Attorneys are very busy the day of court but many things can be done in advance.

### **The Day of the Hearing**

You will be asked to give your information or evidence before the court but before you do, you will again be asked to swear on the Bible or make a personal affirmation that you will tell the truth. The information you have given before is used for disclosure and in the preparation of the case but usually never reaches the Justice of the Peace or Judge whom is hearing it. Some things like telephone bills, photographs or bills for damage may be given to the court as evidence by entering it as an

exhibit. If the Crown Attorney is involved, they will assist you by asking you questions based on the information you have given them.

The accused or his lawyer will likely also ask you questions. This is frightening but remember there are rules as to what they may ask and how they can treat you. There is also court security and the Justice of the Peace or Judge and usually the Crown Attorney will be present. You do not have to speak to anyone unless you are in the witness box and the Justice of Peace or Judge tells you to.

If you are asked questions that make you uncomfortable or make you worry about your safety, ask the Justice of the Peace or Judge if you must answer and explain why you do not wish to. For example, if you are asked where you live, where you work or where your children go to school, you may not wish to give that information to the accused for safety reasons.

The accused or the person you have filed the Peace Bond against may also bring witnesses and evidence to court. They do not have to say who or what they are presenting unless they are also seeking a Peace Bond from you. If they do make an application, all the information they will be giving in court must be given in advance. This is the same as for any witnesses or evidence you provided. Make sure you get a copy of their disclosure.

You may be asked to sign a mutual Peace Bond. Before you sign anything, seek legal advice from an independent lawyer, not the Crown Attorney. Although you will not have a criminal record by signing this, there may be serious problems if that person makes claims against you in the future.

### **Other Options**

If you feel that you or your children are at risk because of your partner's or former partner's behaviour, you should seek what is known as a restraining order through the Family Court.

It is important that you seek advice from a legal clinic if you fall into this situation, or if there is a Unified Family Court in your community, go to the FLIC Office. FLIC stands for Family Law Information Centre.

**Unified Family Court** (905) 436-4900  
33 King Street East  
Oshawa, Ontario

**Family Law Information Centre**  
21 Centre Street  
Oshawa, Ontario

If the Justice of the Peace or Judge is satisfied you have reason to fear for your safety, your children or your property, he or she will order the person to promise in writing to keep the peace and be of good behaviour. There can also be other conditions depending on the needs of the person applying. This is called a Recognizance to Keep the Peace or a Peace Bond and can last as long as 12 months.

The court will then send a copy of the Peace Bond to the Police and it will be registered on their computer. If the person does not break the conditions he will not be charged criminally. If the person breaks the conditions and the police are called, he may be charged and will have to face a criminal trial.

Even though you have a peace bond, it is important to be cautious. There is no assurance that this person will obey the order. The following are good ways to make sure you stay safe:

1. Call the Police if any of the conditions are broken. We know from experience that sometimes things start off small but if they are not taken care of right away, they can become much worse.
2. Obtain a copy of the Peace Bond and give copies to people you think should have one.



3. Check with the Police or Courts to make sure the order is registered in the Police computer.
4. Do regular check-ins with friends, especially if you are going to be out late.
5. Let someone know if you think the person has been around.
6. Let your neighbours know that if they see the person they should call the police and they should keep track of the date and time he was seen.
7. Always have a safety plan. The facts tell us that women are less safe once they leave their partner.

For some abusers, a Peace Bond is enough to stop their abusive behaviour but nothing is sure. Always have a safety plan. It is also important to continue to keep the information we talked about earlier in case you need to call the police or you need to go to court in the future.

**If you feel that you, your children or your property are in danger, dial 911.**