

**Appendix I**

**A Needs Gap Assessment Report on Abused Women  
Without Legal Representation in the Family Courts**

**RESEARCH REPORT**

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This report was produced by Molly Dragiewicz, Ph.D. and Walter DeKeseredy, Ph.D. for  
Luke's Place Support and Resource Centre.

## **Acknowledgements**

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## INTRODUCTION

This report documents and analyzes the experiences of abused mothers in Ontario who are negotiating the family court system without legal representation. It also includes information from advocates, family court support staff, family law judges, and lawyers. The study was undertaken in order to identify gaps in existing services to victims and enhance accessibility and service quality for abused women in the family court system.

Our findings are based on multiple research methods including:

1. Focus groups with 18 survivors
2. Focus group with 8 community advocates
3. Focus group with 6 legal support workers
4. Focus group with 8 lawyers
5. A survey of 66 women survivors, community advocates, community legal workers, and lawyers
6. Two interviews with mothers who are survivors of woman abuse
7. Two interviews with specialist family court judges
8. Interview with one judge who cycles in and out of Durham family court

Based on these findings, we identify and discuss three primary areas where the needs of abused mothers are currently unmet in Ontario, with harmful consequences to mothers and children. As one survivor put it, “they are hard on us women and we are trying to get our kids a normal freaking life.” The three interrelated areas that surfaced repeatedly in our study are:

- Safety for abused women and their children
- Access and accountability for abused women in the family court system
- Financial independence

In addition, this report covers the history of and need for this study, our research methodology, and a discussion of relevant research to contextualize our findings.

The report concludes with a discussion of our findings that point to the need for a variety of changes in the practices and services surrounding family court.

## **SIGNIFICANT CANADIAN POLICY DEVELOPMENTS**

Approximately 10 years ago, a shelter worker and advocate interviewed by Walter DeKeseredy and Linda MacLeod (1997, p. 199) said:

It is hard from me to see whether we've made any progress to stop the violence. Sometimes I look back at what has been accomplished and feel like there has been significant progress. After all, women's groups working for change have gained funding for shelters. We were successful in getting public attention and in raising public awareness around woman abuse. There have been some changes made to the criminal justice system, and generally now recognize that woman abuse is a crime. But there are other times, I look back and wonder if all of us working for change are just puppets for a political agenda that goes totally against our goals. All our gains are so fragile. We have shelters, but now they are threatened with cutbacks and some are closing. We have awareness, but there's also the backlash. We have changes to the justice system, but more and more women are saying that the justice system only makes things worse for them.... And it certainly doesn't seem like the violence is decreasing. What has all our work been for?

What this woman said then still holds true today. Unfortunately, an overview of Canadian initiatives and resources to end woman abuse and the myriad of related problems (e.g., child custody and access) reveals that Canada has taken "two steps forward and one step back" (Denhem & Gillespie, 1999). For example, since the mid 1980s we have seen:

- Increased awareness and more education programs.
- Police training programs concerning woman abuse.
- Police affirmative action hiring programs to increase the number of women officers.
- Mandatory arrest policies.
- A major increase in the number of shelters and transition houses.
- The creation of domestic violence courts.
- A growth in batterers' programs.
- Resources and services for children who have witnessed woman abuse.
- Coordinated, community-based approaches (Baker, 2005; DeKeseredy & MacLeod, 1997).

The following five legal decisions and relatively new laws also had a significant impact on the ongoing and ever changing struggle to end woman abuse:

- The 1999 Lavalle Supreme Court Decision.
- The 1993 Criminal Harassment/Anti-Stalking Law.
- Bill C-72: The Self-Induced Intoxication Defense.
- Bill C46: Production of Records in Sexual Offence Proceedings.
- Legislation allowing police to remove guns from a residence in which an occupant has been charged with threatening or assaulting another occupant (Denham & Gillespie, 1999, pp. 10-11).

On the surface the above policies, laws, and initiatives look promising and/or effective. However, as DeKeseredy and Macleod (1997) remind us, some of them mirror the factors that create woman abuse and do not target the broader social, political, and economic forces that contribute to this harm. For example, their research shows that harsh law and order approaches silence many women who are abused because they cannot tell their story in a traditional justice setting and have their worth reconfirmed. Moreover, the battered woman syndrome defense typically involves courts tending to see only psychiatrists as credible expert witnesses, thus strengthening the idea that woman abuse is a medical or psychiatric problem. Then, of course, increasingly, we are seeing that women who seek help for abuse-related mental health issues are having their help seeking behaviour used against them in child custody and access cases (Denham & Gillespie, 1999).

In sum, then, abused women now have more resources to choose from, but they are not markedly safer. Certainly, separated/divorced women in Canada are still at high risk of being killed (Cross, 2007; DeKeseredy, 2007). Another point to consider is that in early September 2007, the federal Canadian government led by Prime Minister Stephen Harper eliminated funding to the National Association of Women and the Law, which is a non-profit women's group that struggles to help end violence against women and other forms of

female victimization. And, on October 3, 2006, Bev Oda, then federal Minister for the Status of Women Canada (SWC), announced that women's organizations would no longer be eligible for funding for advocacy, government lobbying, or research projects. Further, SWC was required to delete the word "equality" from its list of goals as "women have achieved equality".

Additional problems abused women and those struggling to help them face are:

- Challenges from fathers' rights groups and others promoting an anti-feminist backlash, including some Canadian researchers like Donald Dutton (DeKeseredy & Dragiewicz, 2007).
- A shortage of affordable housing and cutbacks to social service delivery (DeKeseredy, Alvi, Schwartz, & Tomaszewski, 2003; Denham & Gillespie, 1999).
- When joint custody or poor access arrangements are established, abused mothers are forced into ongoing contact with abusers creating safety issues, forcing them and their children to deal with controlling tactics and emotional abuse by the perpetrators. In extreme situations, women or children have been murdered by these abusive men (DeKeseredy, 2007; Luke's Place, 2007).

A much longer list of problems and challenges abused women now face could easily be provided here, but the key point to consider is that policy decisions can have profound effects on the ways people relate to a life experience and act on it. Looking at the problem of woman abuse by tracing policy decisions generates considerable unease. While awareness and concern about the prevalence of separation/divorce assault and other forms of woman abuse have grown substantially since 1980, and while governments and organizations have put millions of dollars and many hours into attempts to reduce abuse, some of the policies put into place to curb this problem have often thwarted the apparent aim of the policy (Jaffe, Lemon, & Poisson, 2003).

## **RESEARCH ON VIOLENCE AGAINST WOMEN IN THE CONTEXT OF SEPARATION AND DIVORCE**

Over the past 35 years, there have been hundreds of North American studies of different forms of woman abuse (e.g., physical, sexual and psychological) in marital and cohabiting relationships (Brownridge & Halli, 2001), all showing that male-to-female victimization in these heterosexual unions is a major public health problem (Krishnan, Hilbert, & VanLeeuwen, 2001). Scores of people, including criminal justice officials, shelter workers and other practitioners contend that the most important weapon women have in their battle to end their partners' abuse is to divorce or separate from them (Schwartz, 1988; Walker, Logan, Jordan, & Campbell, 2004). Although large numbers of women in abusive marital or cohabiting relationships continue to live in these "dangerous domains" for reasons beyond their control such as economic dependency (Johnson, 1996; Websdale & Johnson, 2005), most battered women eventually "flee the house of horrors" (Schwartz, 1989; Sev'er, 2002). Still, for many targets of "intimate intrusions" (Stanko, 1985), separation or divorce alone does not solve the problem of woman abuse (Block & DeKeseredy, 2007; DeKeseredy, Schwartz, Fagen, & Hall, 2006).

Many men do not leave their ex-partners alone and their visits can be deadly (Brownridge et al., 2008; Campbell et al., 2003; DeKeseredy & MacLeod, 1997). As Polk (2003, p. 134) reminds us, "[T]ime and time again the phrase 'if I can't have you, no one will' echoes through the data on homicide in the context of sexual intimacy." Foreexample, in 16% of the cases of intimate femicide<sup>1</sup> that occurred in Ontario between 1974 and 1994,

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<sup>1</sup> Intimate femicide is defined here as "the killing of females by male partners and with whom they have, have had, or want to have, a sexual and/or emotional relationship" (Ellis & DeKeseredy, 1997).



the victims were separated from their legal spouses (Gartner, Dawson, & Crawford, 2001). Furthermore, throughout Canada, Wilson and Daly (1994) found that compared to co-residing couples, separation entails a six-fold increase in homicide risk for women. Note, too, that the risk of homicide peaks during the first two to three months following separation (DeKeseredy, 2007; Dobash, Dobash, Cavanagh, & Medina-Ariza, 2007), and men who kill women during the process of separation/divorce tend to be younger, have an official criminal record, and to be an ex-dating partner (Dawson & Gartner, 1998).

U.S. research also shows that separation is a key risk factor of femicide (Bancroft, 2002). In fact, close to 50% of men in the U.S. on death row for domestic murder killed their wives or lovers in retaliation for leaving them (Rapaport, 1994; Stark, 2007). Moreover, everyday in the U.S., approximately four women are killed by a male intimate partner (Stout, 2001). Indeed, data presented here and elsewhere support Diana E.H. Russell's (2001, 176) claim that femicide is "some men's final solution for women."

Non-lethal separation assault is also common in Canada. Statistics Canada's National Violence Against Women Survey found that about one fifth (19%) of the women who reported violence by a previous male partner stated that the violence increased in severity at the time of separation (Johnson & Sacco, 1995; Rodgers, 1994), and 2004 Canadian General Social Survey (GSS) data show that, among women with a former husband or male cohabiting partner who had been violent during the relationship, 49% were assaulted by their ex-partners after separation (Mihorean, 2005). Several other North American studies, most of which are Canadian, uncovered similar data with the risk of assault peaking in the first two months following separation and when women attempt permanent separation through legal or other means (Ellis 1992; Ellis and Stuckless 1996).

Hence, it is no wonder that many of Evan Stark's female clients told him that "they were never more frightened than in the days, weeks, or months after they moved out" (2007, 116).

Of course, separation/divorce assaults are not restricted to North America. For example, McMurray, Froyland, Bell, and Curnow (2000) found that 21% of the 146 separated Western Australian men in their sample were violent during separation. Thus, as Douglas Brownridge (2006, p. 517) points out in his in-depth review of the international social scientific literature on violence against women post-separation:

In short, studies that allow a comparison of violence among separated, divorced, and married women show a consistent pattern of separated and divorced women being at elevated risk for violence compared to married women, with separated women having by far the greatest risk for post-separation violence. It appears that separated women have as much as thirty times the likelihood and divorced women has as much as nine times the likelihood, of reporting non-lethal violence compared to married women.

Sexual assaults also occur when women are wanting to end, planning to end, are trying to end, are in the process of ending, or have ended a relationship with a male marital or cohabiting partner (DeKeseredy, Rogness, & Schwartz, 2004). However, the bulk, if not all, of the research on this topic so far was done in major U.S. cities and in rural parts of Ohio (DeKeseredy, 2007; DeKeseredy et al., 2006). Clearly, more Canadian qualitative and quantitative research on separation/divorce sexual assault is needed. Having said this, it is also important to keep in mind that much, if not most, of the information offered in this section of this report is, as Stark (2007, p. 116) reminds us, "not news to battered women."

He also correctly points out that:

Abused women are much less likely than the professionals whose help they seek to regard decisions about physical proximity as means to end abuse and much more likely to regard separation as a tactical maneuver that carries a calculated risk within the orbit circumscribed by assault or coercive control. The disjunction between

what victims and outsiders expect from separation remains a major obstacle to effective intervention and communication in the field.

Our study accentuates Stark's focus on the need for professionals to understand the jeopardy in which mothers and their children remain following separation or divorce from an abuser and to mitigate the associated risks. Despite the fact that the majority of laws, programs and services target emergency intervention and services, the abused mothers in our sample recounted ongoing abuse that significantly shaped their safety following separation and their ability to remain free from abusive relationships. Our results indicate that the time has come to shift our attention to what abused mothers need to protect themselves and their children from further harm following separation from an abuser and what the community can do to facilitate safe separation.

## METHODOLOGY

This needs assessment and gap analysis for abused women unrepresented in the family law system begins to establish an empirical foundation for policy and programs that serve abused mothers in Ontario. As noted above, there have been significant improvements in the level of awareness of woman abuse in Canada. Both government and grassroots community initiatives developed to prevent and respond to woman abuse stand as evidence of a commitment to addressing the problem.

Nevertheless, survivors of woman abuse, advocates, lawyers, and judges report ongoing, and in some cases increasing, problems in the courts for abused women as they seek separation and divorce from their abusers (Fields, 2008). Some of these problems stem from the fact that the courts were not designed with abused women in mind, and are poorly suited to dealing with non-physical forms of abuse, ongoing patterns of behaviour, and power imbalances that are endemic to woman abuse.

Other problems are the unintended outcomes of policy changes that were intended to make divorce less antagonistic for couples and families, but are inappropriate and harmful in cases where there is a history of abuse. Still other problems are related to the fact that policies, programs, and resources for woman abuse focus on the crisis situation in the short term rather than strategies for violence prevention. While emergency services and programs are absolutely essential, they are insufficient to ensure women's long term safety and independence.

The problems associated with being unrepresented in the family law system are exacerbated for abused mothers who find themselves caught up in the conflicting paradigms and priorities of the criminal justice system, child protection agencies, and the family courts.

As a result, the unintended and unforeseen consequences of current family law policies and processes for abused women, including the risk of homicide, rape, and child abuse, require our immediate attention.

Despite the frequency of anecdotal reports about problems with family law issues following separation and divorce, and a growing awareness of problems for abused women in the family courts around custody, access, and child support, there is still little empirical research in Canada on the experiences of abused women who try to navigate the family law system without legal representation. Our investigation has yielded preliminary findings in this area. As an exploratory study, our findings answer some questions and raise many others.

### ***Research methods***

Given the paucity of local research on the experiences of abused women unrepresented in the family courts, this study was necessarily exploratory. We triangulated multiple qualitative and quantitative research methods in order to ensure the breadth and depth of the information gathered. The study included a survey in order to gather quantitative information about the demographics of respondents, the issues faced by abused mothers who are unrepresented in the family law system, and the frequency of these problems as reported by mothers, advocates, lawyers, and family court support workers. In addition to the survey, the study included focus groups with survivors of woman abuse who have been unrepresented in the family law system, community advocates, community legal workers, and lawyers. The study also included in-depth interviews of family court judges and survivors.

### ***Development of study instruments***

We developed the questions for the focus groups and questionnaires for the study collaboratively, with questions proposed by the advocates, scholars, and lawyer involved with the project. The entire group met to select the categories of questions of central concern to the study, to limit the number of questions to be included, and refine the order, format, and wording of the questions.

Four different pencil and paper questionnaires were tailored to the respondents including: survivors of woman abuse who have been unrepresented in the family law system, community advocates, community legal workers, and lawyers. Some respondents completed the questionnaires onsite on the same visit as their focus group or interview. Others filled out questionnaires but did not participate in the interviews or focus groups. Others only participated in interviews. Different focus group questions were developed for survivors, community advocates, community legal workers, and lawyers. The interviews were open ended, and aimed to allow a deeper understanding of the experiences of abused mothers as well as the perceptions of some of the judges handling these cases. Luke's Place thought it was important to bring various stakeholders to the table to gather information from multiple perspectives in order to ensure more complete and accurate view of the current situation. The instruments we developed for the study are attached as appendices.

### ***Respondent recruitment***

The investigation utilized purposive sampling. For survivors, we recruited women who had experienced woman abuse and been unrepresented in the family court system. Special effort was made to recruit women from underserved communities including women who are members of ethnic, cultural, or racial minority groups, Deaf women, women with

disabilities, and women in rural areas. For advocates, community legal workers, judges, and lawyers, we solicited participation from respondents with experience working with survivors of woman abuse who have been unrepresented in the family court system. Respondents were solicited from the family court offices, abused women’s shelters, counseling agencies, multicultural community service organizations, rural outreach agencies, agencies serving women with disabilities, and family law resource agencies. In addition, an ad for focus group volunteers was placed in a community newsletter.

The final sample for the study included 68 respondents across all methods. All of the survivors, lawyers, and advocates who participated in a focus group or interview completed a questionnaire. The judges were not asked to complete questionnaires. Study participants for each method are described in Table I.

Table I  
STUDY PARTICIPANTS

<b>Part of study participated in:</b>	<b>Number of respondents</b>
<b>Focus groups</b>	40 total
community support workers	8
lawyers	8
legal support workers	6
survivors	18
<b>Interviews</b>	5 total
judges	3
survivors	2
<b>Questionnaires</b>	65 total
community support workers	14
lawyers	9
legal support workers	15
survivors	27

### **Quantitative analysis**

The questionnaires were analyzed using the quantitative software SPSS to identify the frequencies of responses to each of the questions on the four surveys. The frequencies were then analyzed in the context of the qualitative data. Given the small sample size, these

frequencies are intended to describe the experiences of survivors of woman abuse unrepresented in the family law system, not to provide statistically generalizable information about the prevalence or incidence of these problems.

***Qualitative analysis***

The focus groups and interviews were digitally recorded and transcribed professionally using Dragon Naturally Speaking, a voice recognition software. In addition, the focus group facilitators wrote participants' responses to the focus group questions on a flip chart. These responses were aggregated and recorded for all of the groups. The transcriptions were then coded for themes, and the themes are elaborated with reference to the quantitative data below.



## FINDINGS ON WOMAN ABUSE

### IN THE CONTEXT OF SEPARATION AND DIVORCE

*You know you're trying to maintain normalcy for your children and give them the things that they rightfully deserve. And you're doing it with absolutely no help, and I have great family support. So please don't get me wrong. I have a lot of people that love us and take care of us emotionally. But it's not the same day in and day out, when your children don't want to be there and your children don't want to go there and the courts say your children have a voice that in fact, they don't, because no one really cares. And it just comes down to that this is the law, that he must see them at all costs, because he is the biological father. So it doesn't matter what's going on. – Survivor*

### **Survivors' Perspectives**

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#### *Demographics*

Our final survey sample included 27 survivors who had been unrepresented in the family court system. The average age of the survivors was 36-37, and the women ranged from 22 to 55 years old. Although we tried to recruit respondents from underserved communities, none of our respondents identified as Aboriginal, and none identified themselves as recent immigrants. 51.9% of the women said they live in a city, with 33.3% living in a town, 11.1% in a village, and only 3.7% reporting that they live in the country. 14.8% of the women reported having a physical disability, and 3.7% reported being Deaf or hard of hearing. Almost half of the women in our sample, 48.1%, reported having a psychological disability. These women indicated that they were experiencing anxiety, depression, or post-traumatic stress disorder (PTSD). The women in the sample had a variety of educational experiences. 29.6% of the survivors reported having completed some high school, and 14.8% had a high school diploma. Slightly more than half of our sample had educational experience beyond high school. 44% of the women had some college or

university education, 3.7% had an undergraduate degree, and an additional 7.4% had a graduate degree.

#### *Characteristics of relationship & families*

The women in our sample were equally likely to have been married to or lived common-law with their abuser, with 46.2% of the women in each of those categories. An additional 7.7% of the women never lived with their abusive ex-partner. The length of time the survivors had been with their abuser ranged from one year to 34 years. All but one of the survivors who completed the questionnaire had children. 29.6% of the women in our sample had one or more children younger than five, 48.1% of the women had one or more children aged 5-12, 33.3% had children 13-17 years old, and 25.9% had one or more children 18 and older.

#### *Finances*

The survivors reported substantial changes in their financial situation following separation or divorce. Over half of the women, 53.8%, reported that their male partner was the primary breadwinner. The rest of the women were split between 23.1% reporting that they were the primary earner, and another 23.1% reporting that the woman and her male partner made roughly equal amounts of money. The women reported an average family income of \$75,268.00 prior to separation. The average income reported after separation was \$22,587.50. Reliance on social services or other forms of financial assistance were related to this precipitous drop in income. 44.4% of the abused women in our sample reported that they currently rely on social services for income support, and 51.9% said they rely on friends and family for income support.

These financial difficulties were reflected in the women's narratives about their experiences trying to secure and retain legal representation. Some women in our focus groups reported being denied legal aid because they had too many assets, but they were still unable to afford to hire a lawyer. Indeed, the women's average post-separation income is too high for them to be eligible for legal aid, which puts the baseline cutoff for a mother of two children at \$12,900.00, and a mother with four children at \$15,372.00. Legal Aid Ontario's website says,

Legal Aid looks at all your assets, such as cash, bank accounts, stocks, bonds, and RRSPs to see if you can pay for all your legal fees. We also include anything that you can sell or easily convert into cash. Depending on your situation, you may be expected to use some of your assets to help pay for legal fees. We also look at other assets, such as houses and property. Normally if you own a house or property, you are expected to borrow against it to pay for legal fees. If you cannot borrow against it, we will ask you to agree to sign a lien against the property. You must provide proof of your assets. (Legal Aid Ontario, 2008)

Providing proof of assets would be difficult for women who have left home in a hurry, or whose abusive partners control or hide the financial information.

To make matters more complicated, according to the Legal Aid Ontario (LAO) website, the means test they employ includes "you, your spouse, common-law partner or same-sex partner, any of your dependant children" (Legal Aid Ontario, 2008). Since most of the women in our study reported significantly higher incomes before separation, it is likely that their abusive spouse's income and assets prevented women from passing the means test even though the women had no access to these resources. Women's lack of financial assets and low income contributed in a number of ways to their being unrepresented in court. Most of the women in our sample, 84.6%, said they had a lawyer at one point in their family law case. Of the women who had ever had a lawyer, half had one,

and half had more than one at different points in their case. Many of the women in our sample were not eligible for legal aid. 37.5% of our respondents said that they did not qualify for legal aid but could not afford a lawyer. An additional 6.3% ran out of money, and ended up unrepresented.

Women who did have some assets at the time they sought legal aid, such as retirement savings plans (RSPs) or equity in a mortgage, were advised to cash out their RSP or put a lien on their house in order to be able to pay a lawyer. This advice is very shortsighted since the women in these cases were dealing with child custody and child support. We know from other Canadian studies that women can lose custody to abusers because the abuser has more financial assets and a higher income, leading judges to conclude that the father can provide a better home, regardless of his prior involvement in child care or the associated housework (Boyd, 2003).

This reality puts many abused mothers in a catch-22 situation. They need to liquidate all of their assets or go into debt to retain a lawyer in order to have the best chance at securing the custody arrangement that they require or the child support they need. However, once women have spent their savings on a lawyer or gone deeper into debt to hire one, they face increasing dependence on their abuser for support, as well as the real risk of homelessness. The survivors were sharply aware of these risks.

#### **Survivors' voices**

*Well my main problem, I went to legal aid in March to ask for help, and they told me that I owned a home. Well they would put a lien on it which was fine, but when my mortgage is due, I would have to pay the lien off before I could get another mortgage. My mortgage is due in May and that they would decide which lawyer I would get. They would decide how many hours I would deserve and because I leased the vehicle I can probably afford a lawyer. So I was denied so I said, all of that makes no sense to me because I work, and I'm proud of the fact that I work and support my children. I've worked very hard for them. I've done the best that I can. I do have a home for them, which I am so fortunate to have and I thank God every day for the things that I do have, but*

*it makes no sense to me that you are going to let me borrow money with your conditions and I'm to pay it back. And I don't have a problem with that. But you want me to sell everything that I own before I get it? So where does that leave me? Exactly where you want me to be and that is stuck. And how are we supposed to get ahead, if you are putting us right in where we are locked, were stuck? How are we ever supposed to move ahead? That makes absolutely no sense to me, because it's a vicious circle because when it's done it's time, I'm still going to have to use those services to keep me going, and there's no break, and there's no way out as far as I'm concerned..... That's right. So I don't want to put myself through it and in that position. The bottom line is that I love my children and I will do anything for my children, and what's in the best interest of them. But I'm not going to live on the street with them either. It's absolutely absurd to me.*

Women who do cash out all of their assets as required by legal aid may then be punished for doing so at custody determination. Judges may determine that the father can provide a better home, or is in fact the better parent, because he is not poor or dependent upon public assistance. This is one way in which assessments of the best interests of the child ignores the dynamic context of child custody, access, and support end up penalizing survivors of woman abuse.

*Problems with recent developments in the family court: The move to pre-trial settlements and “friendly parent” provisions*

Problems with custody, support and access are increased for abused mothers in the contemporary context of support for “friendly parent” provisions that reward the parent who expresses the greatest willingness to facilitate contact between the child and the other parent, and punish parents who resist such contact, regardless of their reasons. Under friendly parent policies, abused women who seek to protect themselves by putting distance between themselves and their abuser, or seek to protect their children when they believe they are being abused by their former partner or spouse, are often penalized by the courts. In fact, women who insist that they do not want contact face an increased risk of losing custody to the abuser altogether (Boyd, 2003).

In addition to friendly parent policies, the push to settle custody, property, and support matters without going to trial also works against survivors of woman abuse. Although case conferencing and mediation are intended to make divorces less acrimonious, faster and cheaper for all involved, they are easily manipulated by abusers. Many of the women we spoke to reported that they felt pressured into “negotiating” away the safety measures or support they really needed during these pre-trial negotiations.

#### **Survivors’ voices**

*I was railroaded in February. Not only by him but by the OCL that if I signed the papers.... There are things that I want and in order to get those I was told I had to give. So I lowered my child support, and I gave him an extra day of access and by giving that I went into court, and the judge said are you okay with this. And I told the judge this is what I had to do in order to get what I wanted.*

Women felt they were characterized as difficult, crazy, selfish, or uncooperative if they stood their ground. This was especially true for women who talked about their fears for their children’s safety from physical and sexual abuse. Many of the women felt that their concerns about child abuse were not only dismissed, but were used against them.

#### **Survivors’ voices**

*And I feel any time I tried to talk to anyone I [was seen as] just being this vindictive ex and meanwhile I've got papers where he was charged for drinking and driving I have called CAS and I have no help.*

*I wish there was more people out there that could see the red flags instead of looking at us like we're the vindictive mothers that are trying to stop our kids from going.*

*So I'm trying to deal with all of these things and I'm being thrown with the accusation that you are just doing it because you are a vindictive partner because you are trying to take his money away from him and you're doing it because. And how come all of these things are coming all at once into the open because as soon as you left? Why is there child abuse? So why did it all of a sudden become a police case? Do you have a picture and do you have bruises and photographs and did you take them to the doctor or did you call the police?*

*There were lots of children's aid workers saying wrong things about me and I'm this vindictive mom and I'm just trying to take advantage of him and trying to put ideas in my children's heads and lots of things.*

*She [a worker from CAS] brought money from my ex-husband to me and she said he felt so bad that you are on welfare and here's \$300 from him and you can buy clothes or whatever and feed your kids and I said you have no right to do that. To bring money from him.... if he is so worried about feeding the children he should pay me support in the courts and in the legal system and he is giving you money to bring it to me to make him look good. She would say I was such a rude and stubborn person and this and that and she didn't have any idea how abusive he was.*

The fact that mothers are punished for efforts to protect children from sexual abuse is even more disturbing given that the mother's support is one of the primary factors shown to mitigate the harm of child sexual abuse (Everson, Hunter, Runyon, Edelson, & Coulter, 1989).

Although mediation and family case conferencing are ostensibly choices that women can make, the reality is that mothers are openly pressured into accepting these pre-trial agreements. Women felt that family court staff, mediators, lawyers, and judges pushed them to negotiate as if they were on an even playing field with their abuser. Some women felt forced to "compromise" on child support to protect their children from further abuse and had their own safety compromised in the process.

#### **Survivors' voices**

*That's when I said OK I am not going to fight anymore and that's it and whatever I'm getting I will just get. And we settled for child custody with the primary residence being my home. I let go of the child support for my older one because every time he went back to him he came back with bruises and the police wouldn't take reports and the children's aid even refused to consider those to be nothing more than an accident. So those fears were coming back with a lot of trauma so I said I'll let go of this in court but my older son you just give me full custody and he did so since then he's not required to go to visit him, only my little one.*

The survivors also talked about welfare workers pushing them to trade their safety for increased child support. Women who were trying to avoid ongoing contact with their abuser reported being urged to go after more child support despite the risk of escalating the conflict and motivating the abuser to seek additional contact. One mother explained what this meant for her children's safety.

### **Survivors' voices**

*Welfare wants me to go back after him for more child support because he's making more money and I don't know where to start or where to go because it's like opening a can of worms because if I do that, if I do that because he hasn't seen his daughter in about two months. If I do that, that puts my daughter in not a very safe place because now he has a truck and I know he still drinks and drives. He drinks more than when he was with me because this other woman is okay with the drinking and she does the drugs with him. So I'm very concerned because he has put my son in the hospital from drinking and driving when I was five months [pregnant] with our child. So I feel at a loss right now. I don't know where to go or what to do and I don't feel I'm getting much legal help because welfare wants it to be that I would get more child-support. They don't care about the issues that go in hand with that. So I'm at a loss and I don't know where to go.*

### *Issues with access and custody*

Even when abuse was recognized by the family court system, the safety measures put in place were minimal at best. Only one of the women in our sample reported that her abuser had no access to the children. 72.7% of the women whose abusers had been granted access were using it. At the same time, of the seven women whose abusers had primary custody, three reported that the abuser was allowing them to access their children, and four women were not allowed access.

In cases where the abuser had access, only one of the women reported having no problems during access visits. 60.9% of the women reported experiencing angry scenes at exchanges. 65.2% said they felt unsafe at exchanges. 34.8% reported their partner has assaulted them at exchanges. Exchanges were not the only problems with access visits.



Significantly, 73.9% of the mothers were concerned about their ex partner using violent or controlling behaviour with the children when she was not there. 73.9% of the women reported their abuser using access visits to criticize them to the children. 65.2% reported the abuser used visits to get information from the children. 65.2% reported continuous conflict about school issues, medical issues, activities, and holidays. 60.9% said they had to force children to go on access visits when they were crying and didn't want to go. 52.2% reported that their ex-partner changed the times of access visits without consulting them. 47.8% said that their abuser refused to return clothing or other items needed by the children after they sent them on visits. 47.8% said their partner did not show for access visits when the children were expecting them. An additional 34.8% said their abuser used the access visits to pressure her to reconcile. The findings on problems with custody and access are summarized in Table II.

**TABLE II**  
**PROBLEMS WITH CUSTODY AND ACCESS REPORTED BY SURVIVORS**

<b>Type of Problem</b>	<b>Survivors indicating this was a problem</b>	
	<b>N</b>	<b>%</b>
Fear about my partner using controlling or abusive behaviour with the children when I am not there	17	73.9
Ex-partner using access visits to criticize me to the children	17	73.9
Feeling unsafe at exchanges	15	65.2
Continuous conflict about school issues, medical issues, activities, holidays, etc	15	65.2
Ex-partner using access visits to get information from the children	15	65.2
Angry scenes at exchanges	14	60.9
Having to force children to go on access visits when they are crying and don't want to go	14	60.9
Ex-partner changing times of access visits without consulting me	12	52.2
Ex-partner refusing to return clothing or items needed by the children	11	47.8
Ex-partner not showing for access visits when children are expecting him	11	47.8
Ex-partner assaulting me at exchanges	8	34.8
Ex-partner using access exchanges to pressure me to reconcile	8	34.8
Your abusive ex-partner refuses to return the children	6	26.1
Supervised access visits done by ex-partner's parents or girlfriend who deny his abuse	4	17.4
Your abusive ex-partner refuses to give you access	4	17.4
No problems reported	1	4.3

*Violence and Abuse Before and After Separation*

Violence and abuse at exchanges are not surprising given the abuse that preceded separation. The survivors in our study spoke in detail about the violence and abuse that caused them to leave their partners. The women described how the abuse continued in their lives after separation, and how some forms of abuse escalated at that time, deeply shaping their experiences in family law process. Although many of the women in our interviews and focus groups emphasized the impact of emotional and psychological abuse over physical abuse, even these women recounted rape and other forms of sexual assault, beatings, and death threats against themselves and physical, sexual, and emotional abuse of their children.

### **Survivors' voices**

*That's what they do and they bully and they bully and they bully until you will break. He's controlling in every other sense, and he uses that in the meantime... There was yelling and screaming and cursing. You know, you are this and you're that and you will never get anywhere without me. I'm going to bury you and you have no lawyer. It's ridiculous, and there are times that he's been at my home, that he's kicked in my door because he doesn't get his own way, and he kicks the side of my house. And I can't do anything about it because he didn't actually hurt me. And the police say they don't get involved with family situations. So you're dealing with all of that and emotionally I see where women go in and say I had enough. Let him do whatever he wants, because I can't take it anymore. This is two years. It's enough.*

*So I remember him purposely destroying things like picture frames or a wine patio thing saying we didn't need it anyhow and its garbage and like things of mine became garbage.*

*The first, I guess five years it was amicable in the sense that our marriage was based on a lot of emotional abuse. There was a few times that it got physical. He liked to beat up the house more than he really liked to beat up me so there was a lot of emotional abuse.*

*When we first separated it was very, very violent and he scared me and he never physically hit me but he threatened a lot and he has a lot of psychological issues and he's in psychiatric treatment and he's at a treatment centre right now for anger management and personality disorders.*

Based on the women's accounts, it seems clear that the impact of psychological and emotional abuse and threats are heightened by a history of violence, intimidation, and manipulation. It would be incorrect to assume that physical and sexual abuse were insignificant because the survivors emphasized psychological abuse. 74.1% of the survivors in our sample reported having called the police because of something their partner did to them. 40.7% said their abuser had had charges laid against him. 58.8% reported that they had obtained a restraining order against their ex partner. Another 28.6% had tried to secure a restraining order and were denied.

The women described a range of violent and abusive behaviors, including psychological, sexual, and physical abuse.

### **Survivors' voices**

*... and what I need is for the kids and I to stay away from him on a constant basis, because he's even beginning to be abusive to my daughter. It was enough for me to see myself through her and my ex-husband was sexually abusive all through our dating and more through marriage.*

*So then he wanted to have sex and I said no you're not even nice to me, you lied to me and I have no interest and like I had no connection to him and I just felt taken I think I knew I was taken. And so then he forced himself on me and I was punching myself in the head crying and begging him to stop and he did whatever he wanted anyhow.*

*In 1997 was the last time he beat me up. On September 13 was the last time he threatened to chop me up and discard me. I have been to court since 92 until last year. I left him when he hit me when I was four months pregnant and he broke my nose. My oldest had seen that and I left him and I tried to get a lawyer from legal aid.*

While many of these behaviors decreased following separation, none of them stopped altogether. The number of women reporting that their abuser often made them fear for their life actually increased slightly, from 46.2% before separation to 54.2% after separation. These findings are summarized in Table III.

TABLE III  
 ABUSE REPORTED BY SURVIVORS BEFORE AND DURING/AFTER SEPARATION

<i>Type of abuse</i>	<i>Survivors who have ever experienced</i>			
	<i>Before separation</i>		<i>During/After separation</i>	
	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>
<b><i>Physical</i></b>				
Grab you or slap you	21	80.8	14	58.3
Push or shove you	20	76.9	14	58.3
Throw something at you that could hurt	18	72.0	11	45.8
Twist your arm or pull your hair	13	50.0	9	37.5
Slam you against a wall	11	45.8	9	37.5
Choke you	10	40.0	4	16.7
Punch or hit you with something that could hurt	10	40.0	7	25.9
Kick you	9	36.0	6	25.0
Beat you up	8	32.0	6	25.0
Use a knife or a gun on you	5	20.8	1	4.3
Burn or scald you on purpose	3	12.5	2	8.7
<b><i>Sexual</i></b>				
Insist on having sex with you when you didn't want to (but did not use physical force)	21	84.0	8	34.8
Make you upset by trying to get you to do what he had seen in pornographic pictures, movies, or books.	15	62.5	7	30.4
Use physical force to make you have sex	12	50.0	3	13.0
Threaten you with physical force to make you have sex	11	45.8	5	21.7
<b><i>Psychological</i></b>				
Behave in a jealous or controlling fashion	26	100	21	87.5
Yell at you	24	92.3	23	95.8
Make you ask him for money	23	88.5	19	86.2
Insult or swear at you	23	88.5	23	95.8
Keep you from seeing your family/friends	23	88.5	13	54.2
Insult you in front of the children	22	88.5	20	87.0
Destroy something that belongs to you	23	88.5	17	70.8
Make you account to him for money you have earned or spent	22	84.6	17	73.9
Follow you or keep an eye on you in other ways	22	84.6	21	87.5
Threaten to hit or throw something at you	21	80.8	16	66.7
Make you fear for your life	19	73.1	18	75.0
Call you multiple times when you were not together	19	73.1	20	83.3
Call you fat or ugly	18	69.2	14	58.3
Accuse you of having affairs with other men	16	64.0	18	75.0
Accuse you of being a lousy lover	15	62.5	11	47.8

### *Subsequent abusive relationships*

Although abused women's subsequent relationships with men are often of concern to the family courts and CAS, the parallel problem is rarely considered. Many abusive men often go from woman to woman, abusing each of them in turn (Klein & Tobin, 2008). Unfortunately, judges tend to see men's new relationships as positive developments, providing what they see as a replacement mother for the children who can pick up the slack for fathers unaccustomed to childcare or housework (Boyd, 2003). While courts may be leery of abused women's new partners, they may well feel better about granting joint custody, sole custody, or increased access to men with new female partners.

Unfortunately, this ignores the reality of abusive men's behavior: that it is not caused by the victim, it is caused by the abuser. Although judges may feel that a new wife or girlfriend guarantees safety and a good home for the children when they are with their father, making the judge feel better about giving him lots of contact, the reality is that children are likely to be exposed to the father's violence and abuse of that woman as well.

### **Survivors' voices**

*To make a long story short, he ended up staying with this woman that is not only verbally abusive to my children but there is still so much domestic dispute going on with the two of them.*

*And it just comes down to that this is the law, that he must see them at all costs, because he is the biological father. So it doesn't matter what's going on. Doesn't matter that he and his wife are rolling around and beating each other up, or she's drinking to intoxication while she's five months pregnant.*

Survivors may blame the new woman, rather than their ex-partner, for the danger to their kids because they already know they can't trust the abuser. In the above quote, the survivor reported the new partner to CAS. Down the road, such a report may provide a record that will be used against the new partner if she leaves the abuser and seeks to

restrict his access to her own children. In addition to serial abuse by abusers, “second wives” of abusive men often join the campaign to decrease or eliminate child support so that they can benefit more from their new partner’s income. Abusers who are skilled at manipulation feed the animosity between the women in order to divert attention from their own behavior and gain support for their efforts.

*Custody, access, and support outcomes for abused mothers*

According to our findings, a history of woman abuse seemed to have little appreciable impact on custody and access cases. Despite the fact that they were trying to leave an abuser, many of the survivors reported that their family law cases dragged on and on. While 23.1% of the women reported that their cases lasted less than one year, 42.3% reported their case lasted between one and two years. 15.4% said their case had taken between two and four years, and 19.2% reported their case lasting more than five years. While 68.8% of the women said that they were receiving or were supposed to receive child support from the abuser, only 2.5% reported actually receiving spousal support. More than one survivor noted that their abuser used money to make a good impression in some circumstances, but refused to pay support as required on an ongoing basis.

Only one of the women in our sample reported that their abuser did not have either joint or sole custody of or access to their child. The most common arrangement, reported by 44% of the women, was joint custody with the children mostly living with the mother and having access to the father. An additional 22% reported that they had sole custody with unsupervised access by the father, 11.1% reported that they had joint custody but the children lived mostly with the father and she had access. 16.7% reported some other arrangement. The trend toward forcing abused women and their children into ongoing

contact with abusers represents a shift in family court ideology where it is increasingly impossible for abused women to avoid being forced into ongoing contact with their abuser as long as the abuser desires it (Fields, 2008; Jaffe & Crooks, 2004; Jaffe, Crooks, & Poisson, 2003; Jaffe, Lemon, & Poisson, 2003; Jaffe, Zerwer, & Poisson, 2002).

All of the women described the difficulties they faced being forced into joint custody or access with their abuser. For many of the mothers, their desire to protect themselves was weighed against the wish that a healthy and appropriate relationship could be possible between the children and their fathers. Unfortunately, reality eventually set in and the women realized that just as they were unable to control or change their abusers' abusive and irresponsible behavior toward them, they could not compel the abuser to be a good parent after separation.

#### **Survivors' voices**

*Part about all of this is that I can handle him saying things to me and he can call me whatever names he wants. And I used to try to reason with him that when you call me all of these names you're not setting a role model and she's looking to me to create and set examples and he calls me in front of her, in front of me and her he will tell me that I'm a stupid fucking cunt and that's his favorite thing or a dumb cunt and he'll tell me I'm a whore or he will tell me that I am a cock sucker in front of our daughter. And he said to her the last time I went to the police station this is his newest thing he likes to say to her that mummies a dirty slut and she likes to get her pussy licked. And I didn't know what to do I wasn't going to get into that with him so I started to sing Alice the camel to get her mind off of that and what was going on and I'm very open with her and I don't lie to her about anything but I censor what I say to what I think a four-year-old should and should not hear. And she'll say something about Daddy said something and I'll say you know what daddies not well, that he's not well and Daddy has a boo-boo in his head and hopefully he can work to fix that. Because she's also going to identify with him and if I say daddy's an ass and he's mental. And maybe next time on the fifth attempt at suicide he will actually kill himself this time you know and sometimes I pray for that because I think if he was dead at least I can say nice things to her about him I don't want her growing up knowing that her father is like this.*

Scholars have commented on the pressure placed on women to promote relationships between their children and their fathers, even if they are abusive (Jaffe et al., 2003).



### *Restrictions on abused women's movement*

As the courts have moved toward an emphasis on maximizing access for both parents, restrictions on parents' movement or "move aways" have become more common in custody orders. These orders prevent abused mothers from leaving the area where their abuser lives, and may even prevent them from visiting their family or other support networks with the children.

#### **Survivors' voices**

*In January I wanted to leave the country on a holiday and then the order stated that my ex-husband had to give me a consent form for travel which him and his lawyer had agreed to do. He said go ahead and purchase the tickets and the tickets were purchased by a friend to leave the country. So they were purchased and then he said no I'm not signing. Then he refused to sign. Then his lawyer refused to sign. I then called an emergency motion the day after Christmas and he showed up and low and behold that morning he showed up with a signed consent form*

#### **Survivors' voices**

*He seen me there and we were talking and he agreed that he didn't want custody, he just wanted to have access and not only from Ontario. So he thought I was going to go back to live in Nova Scotia so we agreed that we would sign a consent with the duty counselor and the duty counselor's name was \_\_\_\_\_ and he totally ruined my life. I didn't know that I could refuse the non-removal order which I still have on me. I'm not allowed to visit with my family in Nova Scotia as a result of this.*

The abused mothers in our sample named restrictions on their movement as just another way their abuser could continue to control, punish, and isolate them.

### *Rights without responsibilities*

The survivors also described the disproportionate emphasis on fathers' rights to access to their children relative to the responsibility required of them.

#### **Survivors' voices**

*And what absolutely kills me of this whole process is that while you're in it and you're fighting for obviously more money. And he's not paying the support that he should be paying. He's not paying for extracurricular activities. Our son is learning-disabled, and he's 10 years old, and he can't read*

*or write. So I am fighting the system as far as school boards and God forbid that they should give up five dollars. So you're fighting that and you're trying to maintain everything for your children, like medical appointments and dental appointments. The man has benefits and he doesn't want to pay for his own children's eyewear or braces. Makes no sense. So while all of this, while you're in the process of fighting for this man to pay for glasses and dental wear and food and shelter and clothing and this and that and the other thing, you have to carry those expenses until it catches up with him. So he's running around with a great lawyer and spending all kinds of money, but you're fully taking care of your children, and in the meantime I'm going into debt, and until it catches up to him he's coming out smelling like a rose because he's got a great lawyer.*

The mothers described their abusive ex-partners failing to live up to the agreements reached in mediation, family conferencing or in court. They reported that despite the men's failure to comply with the conditions required of them, it was difficult to get permanent orders changed to reflect this. Women reported that they had been denied legal aid to get alterations to permanent orders due to legal aid rules. The outcome of this for the women was they were bound by arrangements they had agreed to for sharing custody, access, and authority over the children, without receiving what they were entitled to.

#### *Poor treatment*

The mothers described being treated poorly in court, by lawyers, and by legal workers.

#### **Survivors' voices**

*Family law says you are entitled to represent yourself but you are looked upon and frowned upon when you decide to do so. I really believe it's the money aspect of it. Because you are not paying into the system therefore you're not getting what you are entitled to.*

*If they know you were not represented they will try and use big words to undermine and intimidate you. It's almost like they are buddies with the judge. It's very intimidating.*

This was an extension of their perceptions of being looked down upon as abused women, as poor, and as single mothers.

***Survivors' voices***

*And I think it's about that and you lose all of your friends and they weren't friends to begin with and I know that but people still treat you very different. But the banks and everybody, nobody wants you, workplaces don't want to hire a single mom and you're just left, you don't get invited, your kids don't get invited.*

Other research on women in the family court process has documented women's perceptions of disrespectful behavior (Berger & Rosenberg, 2008).

*Issues in court*

The mothers described being repeatedly dragged into court by their abuser, who was intent on punishing her for leaving him, reporting the abuse, or making him pay child support.

***Survivors' voices***

*...He's going to destroy me and he's going to ruin my life and he told me that was his thing.*

The survivors perceptions that abusers were using the family law process to drag things out longer than necessary, punish them, retain control over them, or ruin them financially were confirmed by the lawyers, judges, and advocates in our study who also commented on this phenomenon.

Women described difficulties accessing the legal resources they needed when they required them outside of standard work hours. 59.1% of our sample had applied for an emergency motion, but the women were often unable to get the legal support they needed in emergency situations.

### **Survivors' voices**

*Any how so that day the police said we can go and talk to him and I said go and talk to him?! He's going to kill me and my mother. And you're going to talk to him? Can't you get me a restraining order? And I didn't know how it worked. And well, you're too late for the Justice of the Peace and family court closed an hour and a half ago so you can either go to the Justice of the Peace tomorrow or family court tomorrow.*

Other women described the long lines at the courthouse that were often time wasted because without a lawyer, they had filled out the wrong forms, filled the right forms out incorrectly, or lacked the documentation they needed for their legal paperwork to be useful to the court.

### **Survivors' voices**

*It's much easier if you are a woman without children at home and you now currently have to go to the court and get a babysitter and wait two and three hours and get in line and wait again because it's a real busy day and I spent seven hours at the courthouse and accomplished nothing because at the end of the day we don't have that. Or you go to file something that's wrong so that's who gave you that advice. Well FLIC [Family Law Information Centre] gave it to you so go back, it's wrong.*

The survivors noted that the legal paperwork was often incomprehensible to them. In addition to this, they received conflicting or inaccurate advice about how to complete the forms, and had to wait in long lines to receive assistance. These stresses were added to by the financial exigencies of having to skip work, or obtain childcare and transportation. Even when these factors were taken care of, the women might find themselves forced to choose between standing in line behind their abuser and leaving the office.

### **Survivors' voices**

*I left my husband in 2005 when my daughter was three. I went to the FLIC office because he had threatened to take my little girl away from me. So I went there for emergency custody order and when I got there he was two people ahead in the line in front of me. Physically I saw his back and I just felt like getting sick.*

Another source of trouble for abused mothers was that they were sometimes refused legal remedies that should have been available because police or court staff used their discretion to deny these remedies.

#### **Survivors' voices**

*I tried to get another restraining order against him and the justice of the peace told me that I recommend you get 911 tattooed on the back of your hand and get a cell phone and I can't afford a cell phone. So I've given up on all of it and the police told me that they can't charge him with anything unless he physically harms me so he's going to have to have to beat the shit out of me or kill me.*

Overall, the mothers described an uneven playing field in the family court system for a variety of reasons including: being unrepresented when the abuser had a lawyer; being afraid of their abuser; being desperate to protect their children; having significantly less resources and money than the abuser; and the courts' emphasis on wanting to appear "unbiased", which translated into minimizing violence and abuse and giving abusers equal credibility. As the next sections show, the women's experiences are substantially corroborated by the community advocates, family law support workers, lawyers, and judges that participated in our study.

## Community Advocates' Perspectives

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The community advocates in our study reported the highest levels of involvement with unrepresented women in the family courts out of any of the non-survivor groups. 82.4% of the advocates reported that they saw abused women in all or almost all of their work, daily, or weekly. The rest worked with abused women several times a year. Table IV summarizes the advocates' reports of work with abused women.

TABLE IV  
COMMUNITY ADVOCATES REPORTS OF WORK WITH ABUSED WOMEN

How often do you see women who are abused?

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid All or almost all of my work	11	64.7	64.7	64.7
Daily	1	5.9	5.9	70.6
Weekly	2	11.8	11.8	82.4
Monthly	1	5.9	5.9	88.2
Several times a year	2	11.8	11.8	100.0
Total	17	100.0	100.0	

86.7% of the advocates indicated that custody and access were the most pressing issues for the women they serve. 13.3% reported that restraining orders were most pressing. When asked about the second most pressing issue the women face, 46.7% of the advocates chose child support, 26.7% chose getting lawyers and/or the family court to recognize abuse as a factor that should influence outcomes, 20% named restraining orders, and 6.7% named emergency motions.

As Table V indicates, the advocates noted that 61% of the unrepresented women they work with do not have a lawyer because they do not qualify for legal aid but cannot afford a lawyer. 15.4% noted that the client didn't have time to find a lawyer given the

emergency nature of the situation. These responses confirm the observations of the family law support workers, lawyers, and judges that we will discuss below.

**TABLE V  
COMMUNITY ADVOCATES REPORTS OF REASONS WOMEN ARE UNREPRESENTED  
IN THE FAMILY COURT SYSTEM**

**Why are (or were) most of the abused women you see unrepresented in family court proceedings?**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Did not qualify for Legal Aid but couldn't afford the fees of a lawyer	8	47.1	61.5	61.5
	Ran out of Legal Aid due to length and complexity of proceedings	1	5.9	7.7	69.2
	Abused woman felt her lawyer did not understand the issues	1	5.9	7.7	76.9
	Client couldn't find a lawyer who would accept Legal Aid	1	5.9	7.7	84.6
	Client didn't have time to find a lawyer given the emergency nature of her situation	2	11.8	15.4	100.0
	Total	13	76.5	100.0	
Missing	System	4	23.5		
Total		17	100.0		

The community advocates reported that women experienced many problems resulting from not having representation. All of the advocates noted that understanding the procedure was a problem for the women they serve. 88.2% indicated that inadequate knowledge of the law was a problem. 88.2% said that paperwork was a problem. 82.4% indicated that the women had problems knowing what evidence about abuse to submit and how. 42.1% named knowing how to act in court as a problem. 35.2% mentioned judiciary response, and 17.6% named court staff response as a problem. 88.2% named other difficulties.

### **Community advocates' voices**

*It's almost impossible to find a lawyer for the first time that that woman is going to court and it's so important to get a lawyer who's going to represent you from the beginning because you can lose so much and it can put you a number of steps behind. They need to go to apply for legal aid and sitting and waiting there with no appointments and I find the legal aid office a little bit too open for my likes. That whenever they are talking everyone can hear what they're saying when they walk in the door and the last thing a woman wants to do is walk up and start talking about abuse right there.*

These responses reflect what we heard from survivors, as discussed above. Table VI shows the percentage of advocates who reported their clients having each problem occasionally or often.

In response to these problems, the community advocates offered a variety of forms of assistance. 82.4% assisted the women themselves. 82.4% referred the women to Luke's Place. 64.7% were able to provide the women with a two hour legal advice certificate. 82.4% referred the women to Legal Aid Ontario to apply for legal aid. 58.8% referred them to duty council. 70.6% referred them to the Family Law Information Centre.

Despite the availability of these resources, 64.7% of the advocates reported that their clients often have difficulty finding a lawyer. 88.2% reported the women often have difficulty affording a lawyer. 82.4% of the advocates heard often that women don't even have enough money for themselves and their children to live on before financial issues around the divorce are addressed in court. The advocates talked about the harm to women that resulted from not having qualified legal representation from the beginning of their cases



**TABLE VI  
PROBLEMS WITH THE FAMILY COURT SYSTEM REPORTED TO ADVOCATES BY ABUSED  
WOMEN**

<b>Type of Problem</b>	<b>Frequency of client reports of problem to community advocates</b>			
	<b>occasionally</b>		<b>often</b>	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
Difficulty finding a lawyer	6	35.3	11	64.7
Difficulty affording a lawyer	2	11.8	15	88.2
Not qualifying for Legal Aid	12	70.6	5	29.4
Dealing with pressure from the abusive partner to reconcile	8	47.1	9	52.9
Dealing with ongoing harassment and control by the abusive ex-partner	4	23.5	13	76.5
Fear for her own safety	5	29.4	12	70.6
Fear for her children's safety	5	29.4	12	70.6
Dealing with threats from the abusive partner that he will get custody of the children	4	23.5	13	76.5
Fear that she won't be believed in Court	4	23.5	12	70.6
Having a lawyer that says woman abuse is not a relevant factor	9	52.9	4	23.5
Dealing with an abusive ex-partner who creates issues with access visits (not showing up, arbitrarily changing visits without consultation)	4	23.5	12	76.5
Dealing with an abusive ex-partner who criticizes her to the children for "breaking up the marriage" without acknowledging her right to live free from abuse	5	29.4	12	70.6
Feeling overwhelmed by the complexity of family court proceedings	2	11.8	15	88.2
Feeling frustrated by numerous motions brought forward by the ex-partner	3	17.6	14	82.4
Feeling pressured to participate in mediation when it feels difficult to speak honestly in front of an abusive ex-partner	13	76.5	3	17.6
Feeling emotionally and financially drained by family court proceedings	2	11.8	15	88.2
Feeling disempowered by her lawyer	10	58.8	5	29.4
Dealing with an abusive ex-partner who refuses to respond to court documents	9	52.9	8	47.1
Not having money for herself and children to live on before financial issues are addressed in court	2	11.8	14	82.4
Dealing with intervention by Children's Aid Society because of her partner's abuse	8	47.1	9	52.9
Having her children removed because of her partner's abuse	13	76.5	3	17.6
Feeling pressured to accept Joint Custody agreements to look like a cooperative parent even if it does not feel like the best option for herself and the children	8	47.1	7	41.2
Not knowing how to get the abusive ex-spouse out of the house before it sells	10	58.8	5	29.4

**Community advocates' voices**

*That's the most common concern that we have that when they're unrepresented or underrepresented, is conceding on first its property that's the first thing that goes they give up on rights or access to property and use that as bargaining and then it might be not pursuing or under pursuing child support and then it's conceding on access to hopefully get primary care access or custody and if they were represented they wouldn't have to concede on that because if there's any*

*kind of documentation that this is either high conflict or abusive the case law is that they get sole custody. But if women don't understand that or are not supported or don't show their evidence properly because they're unrepresented it comes down to the court system.*

Like the survivors, the advocates noted that one outcome of being unrepresented was that women feel pushed into negotiating away things they need.

### **Community advocates' voices**

*Another common thing that goes a little bit with the conceding is the case conferencing structure of Unified Family Court versus being able to go on motion. Because case conferencing is dragged out and there is a big emphasis on negotiation and working things out before it gets to the judge and the judge can't make really prejudicial decisions during the case conferencing process. A lot of women don't understand that they don't have to give things up during that process and because it gets very hard I guess, this impacts on how wearing and tearing this process is anyway. But you add to that that they are unrepresented so every time they show up in court they have to somehow attempt to negotiate with him to show at least that they have tried to get a little bit further or closer to an agreement. So she has to do that deal with him or his lawyer on her own behalf through a system that she doesn't really understand. And she may believe that if she doesn't negotiate, some decision will be made against her whereas at certain points in the process the judge really can't go against her wishes and it might come back on her later down the road.*

The difficulties of being unrepresented are made worse by the ongoing abuse that the community advocates saw their clients endure. 76.5% of the advocates reported that women often complain about ongoing harassment and abuse by their ex-partner, with 76.5% reporting that they often hear women complain about the abuser making threats that he will get custody of the children. 82.4% of the advocates reported hearing often that their clients felt frustrated by the continuous motions brought forward by their abuser. As a result of this ongoing abuse, 70.6% of the advocates reported hearing that women were afraid for their safety and the safety of their children. Given the difficulties that survivors have dealing with the system and ongoing abuse, it is no surprise that 88.2% of the advocates often hear that their clients feel emotionally and financially drained by the family court proceedings.

### ***Issues for Rural Women***

Organizations serving rural women also reported additional barriers faced by their clients. 64.7% of the advocates who worked with rural women reported that the women had difficulty with the distance to travel to court or support services. Closely related to this were transportation difficulties, which 76.5% of the advocates named as an issue for rural women. 64.7% said isolation was a problem. Table VII summarizes these problems.

TABLE VII  
PROBLEMS WITH THE FAMILY COURT SYSTEM FOR RURAL WOMEN AS REPORTED TO COMMUNITY ADVOCATES BY CLIENTS

<b><i>Type of Problem</i></b>	<b><i>Advocates indicating this is a problem</i></b>	
	<b><i>N</i></b>	<b><i>%</i></b>
Not enough support services and resources	12	70.6
Transportation difficulties	13	76.5
Difficulty with the distance to travel to court or support services	11	64.7
Isolation	11	64.7
Difficulty with access to services	10	58.8
Economic conditions	10	58.8
Dealing with community attitudes about separating	5	29.4
Fear about partner's access to guns	4	23.5
Lack of anonymity and/or lack of confidentiality	4	23.5
Sporadic access to police	3	17.6
Dealing with service providers who are relatives or friends	3	17.6
Dealing with a more patriarchal attitude toward women	3	17.6
Length of time involved to sell a farm delayed the process	2	11.8

### ***Issues for Immigrant Women***

Immigrant women also face additional obstacles when unrepresented in the family court system. These are cultural and economic issues that are heightened by their immigration status. Foremost amongst these difficulties is the language barrier, which 92.9% of the advocates said was an issue for immigrant women. Related to this is that 42.9% of the advocates said women had trouble finding an effective translator. 78.6% of the advocates had heard that the immigrant women they work with were afraid that their partner will

take their children out the country, and 64.3% were afraid their children would be taken away.

71.4% of the advocates who work with them reported that immigrant women face high levels of pressure from the community to stay in the marriage. The same number report that isolation is a problem for immigrant women. 57.1% of the advocates hear about women's fear of harming their immigration status, with the same number reporting that women were separating from the husband who sponsored them for immigration. Not surprisingly, 57.1% of the advocates reported that fear of being deported was an issue for immigrant women. 78.6% of the advocates reported that economic conditions were a factor for immigrant women. 71.4% of advocates indicated that abused immigrant women had difficulty finding affordable housing, and the same number said they had difficulty accessing legal help. More than a third of the advocates, 35.7%, had heard that racism and discrimination were additional problems, and 42.9% heard that fear of the police or not trusting the police were issues for immigrant women. Table VIII summarizes these findings.

**TABLE VIII**  
**PROBLEMS WITH THE FAMILY COURT SYSTEM FOR IMMIGRANT WOMEN AS**  
**REPORTED TO COMMUNITY ADVOCATES BY CLIENTS**

<b>Type of Problem</b>	<b>Advocates reporting this is a problem for their clients</b>	
	<b>N</b>	<b>%</b>
Language barriers	13	92.9
Fear that her partner will take her children out of the country	11	78.6
Economic conditions	11	78.6
Transportation difficulties	10	71.4
Pressure from her community to stay in the marriage	10	71.4
Difficulty finding affordable housing	10	71.4
Isolation	10	71.4
Difficulty accessing legal help	10	71.4
Difficulty accessing support services that understand my particular issues	9	64.3
Fear that her children will be taken away	9	64.3
Fear of being deported	8	57.1
Fear of harming immigration status	8	57.1
Separating from a husband who sponsored her into this country	8	57.1
Fear of the police; not trusting police	6	42.9
Difficulty finding an effective translator	6	42.9
Dealing with discrimination and racism	5	35.7
Fear of how police will treat her partner	4	28.6

***Issues for First Nations Women***

Although there were no First Nations women who participated in our study, the community advocates that work with them have some sense of the issues that are important to this underserved community. This is clearly an area that requires further research given the disproportionate amount of violence against First Nations women and children, the Canadian history of colonization, child abuse, and genocide, as well as the geographic isolation that many First Nations communities experience. Table IX summarizes advocates' reports of issues for First Nations women.

**TABLE IX**  
**PROBLEMS WITH THE FAMILY COURT SYSTEM FOR FIRST NATIONS WOMEN AS**  
**REPORTED TO COMMUNITY ADVOCATES BY CLIENTS**

<i>Type of Problem</i>	<i>Advocates indicating this is a problem</i>	
	<b>N</b>	<b>%</b>
Fear that her children will be taken away	7	87.5
Economic conditions	7	87.5
Services not understanding traditional ways of healing	7	87.5
Fear that her children will be taken away	7	87.5
Difficulty finding affordable housing	7	87.5
Dealing with discrimination	7	87.5
Lack of trust in the police	7	87.5
Dealing with community beliefs and expectations	6	75.0
Difficulty with access to services	6	75.0
Not enough support services and resources	6	75.0
Transportation difficulties	6	75.0
High tolerance for violence in the native community	5	62.5
Fear that she won't be believed or abuse won't be taken seriously	5	62.5
Difficulty with the distance to travel to Court or support services	5	62.5
Isolation	5	62.5
Dealing with service providers who are relatives or friends	4	50.0
Lack of anonymity and/or lack of confidentiality	3	37.5
Fear that chiefs and council members will support the abuser	3	37.5
Fear that she will have to move outside of her community to get away from abuse	3	37.5

***Issues for Women with Disabilities***

Women with disabilities also faced additional barriers in dealing with the family court system. 91.7% of the advocates who work with women with disabilities reported that these women had difficulty leaving their abuser because he is their caregiver. 83.3% reported feeling less powerful than the abuser was an issue for abused women. Another 83.3% said that abused women had difficulty finding accessible, affordable housing. Table X summarizes these findings.

**TABLE X**  
**PROBLEMS WITH THE FAMILY COURT SYSTEM FOR WOMEN WITH DISABILITIES AS REPORTED TO COMMUNITY ADVOCATES BY CLIENTS**

<i>Type of Problem</i>	<i>Advocates indicating this is a problem</i>	
	<b>N</b>	<b>%</b>
Difficulty leaving her abuser because he is her caregiver	11	91.7
Feeling less powerful than the abuser	10	83.3
Difficulty finding accessible, affordable housing	10	83.3
Fear about managing on her own	9	75.0
Difficulty accessing support services	9	75.0
Transportation difficulties	9	75.0
Being treated as she is a child or lacking in intelligence	8	66.7
Difficulty accessing legal services	8	66.7
Fear that she will be seen as an incompetent witness by police and the courts	8	66.7
Fear that the court will view her as a lesser parent because of her disability	7	58.3
Isolation	7	58.3
Difficulties with physical accessibility to court, legal, and/or support services	6	50.0
Dealing with discrimination	6	50.0
Feeling that she is supposed to be compliant and not challenge people	5	41.7
Difficulty with communicating; require assistance in communicating	5	41.7

Although each of these underserved populations of women had somewhat different specific needs and issues, the women share common experiences including: fearing for their own safety and their children’s safety, requiring assistance in order to gain financial independence, and having trouble getting appropriate action by the family courts because they do not have a lawyer. Despite these similarities, each of these populations would benefit from its own needs assessment in the local context due to the variation among communities.

## ***Family Law Support Workers' Perspectives***

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The family law support workers who participated in the study reported the most favorable view of the state of the family court system of any of the groups we studied.

These respondents noted the positive changes they had observed over the past 20 years.

Positive changes that they commented on included:

- Separation of family court and criminal court so that abuse cases are addressed separately from divorce, custody, and access
- Availability of duty counselors
- Expedited service to get abused women in front of the judge the same day
- Court takes care of serving the abuser in *ex-parte* cases

### ***Family law support workers' voices***

*That's kind of the process that we have in place now and I think it's a pretty good process.*

The family law support workers recognized woman abuse as comprising a substantial portion of the cases they deal with.

### ***Family law support workers' voices***

*You know I don't have a lot of cases at this point and I'm not seeing a lot of people but I would say that probably 90% of the women who would come in have had abuse issues. I am also doing parent coordination these days, and the same old you're dealing with abusive men and trying to help people work out their separation agreements and follow them and clarify them and that kind of thing.*

*So we certainly in child welfare recognize I would hazard a guess that probably about 30% of all of our cases have domestic violence and all of those aspects. And whether they come in as domestic violence referrals or as we go out and do our family interviews and family assessments we learn of it and so it's certainly a big issue.*

Despite their overall impression that things had improved for abused women in the family law system, these service providers were aware of many problems of concern to the women they served. Table XI summarizes the issues that family law support workers reported.



**TABLE XI  
PROBLEMS WITH THE FAMILY COURT SYSTEM AS REPORTED TO FAMILY LAW SUPPORT  
WORKERS BY CLIENTS**

<i>Type of Problem</i>	<i>Frequency of client reports of problem to family law support workers</i>			
	<i>occasionally</i>		<i>often</i>	
	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>
Fear for her own safety	2	15.4	11	84.6
Fear for her children's safety	2	15.4	11	84.6
Difficulty affording a lawyer	2	15.4	11	84.6
Not having money for herself and children to live on before financial issues are addressed in court	2	15.4	11	84.6
Dealing with ongoing harassment and control by the abusive ex-partner	2	16.7	10	83.3
Dealing with threats from the abusive partner that he will get custody of the children	3	23.1	10	76.9
Dealing with an abusive ex-partner who criticizes her to the children for "breaking up the marriage"	4	33.3	8	66.7
Dealing with pressure from the abusive partner to reconcile	5	41.7	7	58.3
Feeling emotionally and financially drained by family court proceedings	4	33.3	7	58.3
Dealing with intervention by Children's Aid Society because of her partner's abuse	5	41.7	7	58.3
Dealing with an abusive ex-partner who creates issues with access visits	5	38.5	7	53.8
Feeling overwhelmed by the complexity of family court proceedings	6	46.2	7	53.8
Not qualifying for Legal Aid	6	46.2	7	53.8
Having a lawyer that says woman abuse is not a relevant factor	5	50.0	5	50.0
Dealing with an abusive ex-partner who refuses to respond to court documents	6	46.2	6	46.2
Difficulty finding a lawyer	5	41.7	5	41.7
Fear that she won't be believed in Court	6	50.0	5	41.7
Feeling pressured to accept Joint Custody agreements to look like a cooperative parent even if it does not feel like the best option for herself and the children	5	45.5	4	36.4
Feeling frustrated by numerous motions brought forward by the ex-partner	7	58.3	4	33.3
Having her children removed because of her partner's abuse	5	50.0	3	30.0
Not knowing how to get the abusive ex-spouse out of the house before it sells	5	50.0	2	20.0
Feeling pressured to participate in mediation when it feels difficult to speak honestly in front of an abusive ex-partner	5	45.5	1	9.1
Feeling disempowered by her lawyer	8	72.7	1	9.1

Safety and financial concerns were at the top of their list. The family law support workers elaborated on these issues in the focus group. Safety issues came up in a number of ways. Family law support workers noted that the locations where abused women would go to seek legal support lacked the most basic safety precautions. Just as the survivors had done,

the family law workers noted the high likelihood that abused women would be forced to be in the same room as their abuser if they went to seek legal aid or other forms of assistance.

***Family law support workers' voices***

*An additional problem is that if there are criminal charges then potentially the accused person could also be going to apply for legal aid so the potential for them to be there at the same time is a big deal and it's a real issue. They could both be there at eight o'clock in the morning in the lineup.*

*That's one of the things that legal aid has been discussing with us is in court services and having an office there at the new courthouse that certificates will be given right there on the spot. But unfortunately there is the criminal aspect too and the victim will be in line with the accused looking for a legal certificate and so do they need two offices and will there be on-site certificates given.*

*One of the things that we've talked about in the past was having abused women and their perpetrators sitting out in the hall waiting to go into court. Like how stupid is that because he gets the opportunity to give her the look and the stare? ... and I think once [a co-worker] told me that this guy was giving her the stare and everything and he walked past her and went "a whore" like he was coughing right in the courtroom and you know what the police that were sitting there I mean they can't be going around reprimanding everybody for every look or every comment but it seems to me there should be something set up where they don't have to sit in the same area.*

The safety measures reported by the family law support workers were minimal.

One family law support worker talked about the resources that are for abused women's safety.

***Family law support workers' voices***

*Both our on site office and our FLIC office we have all kinds of referrals and brown envelopes to put things in so that she can leave the office without them being seen if that is necessary.*

In addition to brown envelopes for hiding information, one family law support worker reported that her office arranged for service of legal documents to abusers. Another noted that women were provided with resources and referrals to put in their brown envelopes. These were the only safety measures that the family law support staff mentioned. Given the

amount of ongoing violence and abuse reported by survivors and family law support workers alike, the lack of actual physical protection for the women is a glaring omission.

Financial issues came second after safety. The family law support workers were aware that many women were not eligible for legal aid but could not afford to hire a lawyer on their own, leaving them at a disadvantage in the family court system.

***Family law support workers' voices***

*In mediation service we are seeing a lot of clients who come to us unrepresented and so what I think one of the barriers is a lack of funding for legal aid. The limitations of the financial test and the financial test is really difficult for people to get legal aid certificates.*

The family law support workers recognized that other barriers existed in addition to eligibility, acknowledging the difficulty of gathering the information required to even ask for legal aid.

***Family law support workers' voices***

*Some of the women haven't even tried to go for legal aid because they are overwhelmed stressed out of their brains and it's really difficult for them. And when I'm over at FLIC and they come in and they're looking for information and they're barely getting through their day trying how to figure out how to stay safe and look after their kids and what's their next step. So it's cumbersome to gather all of this financial documentation and go to legal aid and arrange for child care and in the midst of their situation. So that is why I would like to see an advocate at court helping a woman through her paperwork.*

*Women have come to me about the length of time that it takes at legal aid and they have kids and the little ones and they can't afford a babysitter or they have to pick them up at lunch from kindergarten and the time frame around waiting is very difficult for them to manage which is understandable because there are so many people.*

*And when there were criminal charges our experience is that when somebody was criminally charged and removed from the home they are no longer paying the mortgage payments so the woman may appear to be in a certain bracket money wise but she's not...She really doesn't have access to it and money is an issue of control.*

Finally, the family law support workers mentioned the lack of coordination between the different components of the family law system. They named the lack of coordination between family and criminal courts, on side legal advice and legal aid, and service providers for abused women and family court staff as serious impediments to women's ability to access what they needed to in the family court system. Although the family law support workers named the separation of criminal and family court as an asset, they worried about the lack of communication between different courts, judges, and agencies.

#### **Family law support workers' voices**

*I would like to see more discussion happen between advocates and the service providers and we can learn and we can teach one another in both roles.*

*One of the things that I see from Durham is that we have rotating or roving judges and that causes a problem when we have a judge who is not familiar with the family law roles. And these are criminal experts or civil experts and he's just there to sign off on an adjournment because he's not familiar with family law of rules and it becomes an issue with staffing because the support court staff and the CSR s are out there with judges explaining these processes to them.*

*Then when you get a criminal law judge who has no family law background it is a problem. When I worked in the office of the children's family lawyer and a lawyer will say who is this judge and I've never heard of them and then I find out it's a criminal judge and they've made some crazy recommendation that the parents should have shared parenting until the assessment is done. The assessment takes 60 to 90 days and there could be delays such as a CAS investigation or whatever and then they go back to court and one of the people doesn't like it and guess who that is. And so it gets dragged on and meanwhile a precedent has been set because the kids are going back and forth between parents.*

#### **Family law support workers' voices**

*At children's aid society we are an agency and the mandate that we have, there have been lots of situations where it seems as where we have clashed in our mandate. And we have tried to set up some protocols and we continue to work on that and that is a work in progress with the violence against women sector.*

*And I find that there's a real lack of communication between criminal court and family where criminal court is saying we can't decide custody matters you have to work through family court with*

*them and there's no real communication back-and-forth. So we would like to see that kind of come together a little bit.*

*If it's a case where they have a viewpoint of conciliation and perhaps not because of criminal court orders they often say access has to be through family court orders or third parties and they are including that more often because of the safety programs where women are saying I'm not comfortable with my child going with this person at this stage. So now they tend to be including more through family court orders and that automatically means that I have to go through family court order to facilitate access or through children's aid and sometimes in the criminal order that access can be arranged pursuant to a family court order or children's aid society. But there's no communication between the criminal court and CAS. So if that's included in the order often times when I'm speaking to the workers, I didn't know that that order was in place so there's a real breakdown in communications it seems.*

Although the family law support workers saw the creation of the Unified Family Courts as a positive development, family law support workers reported that their existence seemed to facilitate a return of the marginalization of assault and other crimes against women. The family law support workers saw that crimes against women might be routed through family court once they were defined as abuse, circumventing the criminal court.

#### ***Family law support workers' voices***

*And we're hearing a lot of these officers referring them to family court and they hear that there's been an abusive situation and they say that you have to go to family court they don't even talk to them about the criminal court process and then they get tied up in our system.*

*No they will try and determine if abuse has occurred but was there something recent where they could go into a home then they would direct her to family court because then she gets to talk about custody and access issues and they say well you need to go to family court and you can get a restraining order to keep him away from the home and away from you and the children. And so I'm finding that the police are directing people more often to family court.*

These reports corroborate survivors' observations that the police were often reluctant to act on their reports of crime when the perpetrator was a current or former partner.

Together, these reports indicate that although much attention has been paid to promoting arrest, in reality some abuse cases are not being directed through the criminal courts. This

may hurt abused women's chances of securing safe custody and visitation arrangements following separation because without police reports or criminal charges, it is often difficult for women to establish threats to their safety.

The family law support workers also shared their awareness that abusers were using the family court procedures to prolong their abuse of their former partner. Like the survivors, family law support workers saw abusers manipulating the procedures which have been designed for couples with functional relationships. The family law support workers saw this manipulation as related to the financial difficulties experienced by survivors.

#### **Family law support workers' voices**

*I want to take the complicated system [issue] one more step because you could triple the legal aid budget and still not really address the problem even if you raised the financial test. I think that the way the current system is that women have to navigate through in terms of case conferencing has not at all lent itself well to dealing with high conflict or abusers who want to use the system to control. So they can kind of drag this out over the appearance of we are negotiating all the way along here so let's get another date. So even if she has got some financial resources and she comes up with that initial retainer she's got to go through that very quickly with all of the ways that he can manipulate the system to keep her in it. You know there is an assumption of some kind of good will and we want to work this out or the system wants people to talk but when you're dealing with people like this they are not going to. So he doesn't show up with the paperwork he was supposed to have by that date, he doesn't bring the financial materials and so yet another date is set and so she has to pay her lawyer for that and before she knows it she has nothing. No child support is been paid, no bills have been paid on the house and she's gone through \$5,000 in no time and has nothing and she is six months into it or three months into it. So I think systemically I wouldn't just look at legal aid and say that that would fix that and let's throw some money there. I think systemically people who misuse the system there's not enough accountability.*

*I think that some of the case conferences...the case management system at court and we are talking about a group, a population that will twist something that can be extremely helpful and twist it and make it very difficult...and use it as a weapon, so to speak. So some of the things that are in place that abusers are manipulating, for another family that would be incredibly helpful, so that's a problem.*

*I just want to jump in here and say that the clinical investigations that I do where that's the case where the other person has prolonged getting papers and it goes on and on forever. So well the judges may have the power to quash it, that isn't always the case and my experience is that women*

*have been in and out and in and out of court and he's been given one chance after another. And so you're looking at a year and a half down the road and they are still in court.*

### ***Issues for underserved populations***

Like the community advocates, the family law support workers were aware of additional barriers faced by members of underserved populations around woman abuse and the family court system. Tables XII, XIII, XIV, and XV summarize family court support staff's reports of the issues for women from underserved communities.

#### ***Issues for Rural Women***

TABLE XII

PROBLEMS WITH THE FAMILY COURT SYSTEM FOR RURAL WOMEN AS REPORTED TO FAMILY LAW SUPPORT STAFF BY CLIENTS

<b><i>Type of Problem</i></b>	<b><i>Family law support workers indicating this is a problem for their clients</i></b>	
	<b><i>N</i></b>	<b><i>%</i></b>
Difficulty with the distance to travel to court or support services	9	75..0
Transportation difficulties	9	75..0
Not enough support services and resources	8	66..7
Economic conditions	8	66..7
Isolation	7	58..3
Difficulty with access to services	7	58..3
Fear about partner's access to guns	7	58..3
Sporadic access to police	6	50..0
Lack of anonymity and/or lack of confidentiality	3	25..0
Dealing with community attitudes about separating	3	25..0
Dealing with a more patriarchal attitude toward women	3	25..0
Dealing with service providers who are relatives or friends	2	16..7
Length of time involved to sell a farm delayed the process	2	16..7

**Issues for Immigrant Women**

TABLE XIII

PROBLEMS WITH THE FAMILY COURT SYSTEM FOR IMMIGRANT WOMEN AS REPORTED TO FAMILY LAW SUPPORT STAFF BY CLIENTS

<b>Type of Problem</b>	<b>Family law support workers indicating this is a problem for their clients</b>	
	<b>N</b>	<b>%</b>
Difficulty finding an effective translator	12	92.3
Fear that her partner will take her children out of the country	11	84.6
Language barriers	10	76.9
Transportation difficulties	9	69.2
Fear of harming immigration status	8	61.5
Fear of being deported	8	61.5
Pressure from her community to stay in the marriage	8	61.5
Isolation	8	61.5
Separating from a husband who sponsored her into this country	7	53.8
Difficulty accessing support services that understand my particular issues	7	53.8
Economic conditions	7	53.8
Fear of how police will treat her partner	7	53.8
Difficulty finding affordable housing	7	53.8
Fear that her children will be taken away	7	53.8
Difficulty accessing legal help	6	46.2
Dealing with discrimination and racism	5	38.5
Fear of the police; not trusting police	6	46.2



**Issues for First Nations Women**

TABLE XIV

PROBLEMS WITH THE FAMILY COURT SYSTEM FOR FIRST NATIONS WOMEN AS REPORTED TO FAMILY LAW SUPPORT STAFF BY CLIENTS

<b>Type of Problem</b>	<b>Family law support workers indicating this is a problem for their clients</b>	
	<b>N</b>	<b>%</b>
Not enough support services and resources	3	42.9
Economic conditions	3	42.9
Services not understanding traditional ways of healing	3	42.9
Dealing with discrimination	3	42.9
Fear that she will have to move outside of her community to get away from abuse	3	42.9
Fear that she won't be believed or abuse won't be taken seriously	3	42.9
Difficulty finding affordable housing	3	42.9
High tolerance for violence in the native community	3	42.9
Fear that her children will be taken away	3	42.9
Isolation	2	28.6
Lack of anonymity and/or lack of confidentiality	2	28.6
Dealing with community beliefs and expectations	2	28.6
Dealing with service providers who are relatives or friends	2	28.6
Fear that chiefs and council members will support the abuser	2	28.6
Lack of trust in the police	1	14.3
Difficulty with access to services	1	14.3

**Issues for Women with Disabilities**

TABLE XV

PROBLEMS WITH THE FAMILY COURT SYSTEM FOR DISABLED WOMEN AS REPORTED TO FAMILY LAW SUPPORT STAFF BY CLIENTS

<b>Type of Problem</b>	<b>Family law support workers indicating this is a problem for their clients</b>	
	<b>N</b>	<b>%</b>
Difficulty leaving her abuser because he is her caregiver	9	75.0
Difficulty accessing support services	9	75.0
Fear about managing on her own	8	66.7
Difficulty finding accessible, affordable housing	8	66.7
Transportation difficulties	7	58.3
Feeling less powerful than the abuser	7	58.3
Dealing with discrimination	6	50.0
Being treated as she is a child or lacking in intelligence	6	50.0
Isolation	6	50.0
Difficulty accessing legal services	6	50.0
Fear that she will be seen as an incompetent witness by police and the courts	6	50.0
Difficulty with communicating; require assistance in communicating	6	50.0
Difficulties with physical accessibility to court, legal, and/or support services	4	33.3
Feeling that she is supposed to be compliant and not challenge people	4	33.3
Fear that the court will view her as a lesser parent because of her disability	4	33.3

Again, although each of these underserved groups of survivors has different issues, safety and financial issues remain at the forefront. The difficulty accessing services points to the need for more resources to educate survivors about the services that are available to assist them in navigating the family court system and securing legal representation. The financial difficulties indicated here also indicate a need for greater assistance to women who need economic support to get back on their feet.

## ***Lawyers' Perspectives***

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Seven lawyers completed our questionnaire for the study, and eight participated in a focus group. All seven of the lawyers who completed the questionnaire named custody and access as the most pressing family law issues facing abused women. 66.7% named restraining orders as the second most pressing issue, and 33.3% said the second most pressing issue was child support. All of the lawyers reported that the most common reason women are unrepresented in the family court was that they ran out of legal aid due to the length and complexity of proceedings.

Table XVI summarizes lawyers' perceptions of the greatest difficulties their clients faced in dealing with the family court system. All of the lawyers in our sample reported that understanding the procedure and inadequate knowledge of the law were among the greatest difficulties for abused women. 71.4% of the lawyers also indicated that knowing what evidence to submit and how was one of the greatest difficulties for abused women. 71.4% also said that dealing with their ex partner and/or his lawyer was one of the greatest difficulties.

**TABLE XVI  
GREATEST DIFFICULTIES FOR ABUSED WOMEN UNREPRESENTED IN COURT AS  
REPORTED BY LAWYERS**

<b><i>Type of Problem</i></b>	<b><i>Lawyers indicating this is a problem for their clients</i></b>	
	<b><i>N</i></b>	<b><i>%</i></b>
Understanding the procedure	7	100
Inadequate knowledge of the law	7	100
Knowing what evidence about abuse to submit and how	5	71.4
Dealing with ex-partner and/or his lawyer	5	71.4
Paperwork	4	57.1
Judiciary response	3	42.9
Court/staff response	2	28.6
Knowing how to act in court	2	28.6

In addition to their own observations about the problems abused women had navigating the family law system, lawyers heard from their clients about their problems. Table XVII summarizes the frequency of client reports of different problems.

**TABLE XVII**  
**FREQUENCY OF PROBLEMS WITH THE FAMILY COURT SYSTEM AS REPORTED TO LAWYERS BY ABUSED WOMEN**

<i>Type of Problem</i>	<i>Frequency of client reports of problem to lawyers</i>			
	<i>occasionally</i>		<i>often</i>	
	<i>N</i>	<i>%</i>	<i>N</i>	<i>%</i>
Difficulty finding a lawyer	5	71.4	2	28.6
Difficulty affording a lawyer	1	14.3	6	85.7
Not qualifying for Legal Aid	4	57.1	3	42.9
Dealing with pressure from the abusive partner to reconcile	3	50.0	3	50.0
Dealing with ongoing harassment and control by the abusive ex-partner	2	33.3	4	66.7
Fear for her own safety	1	16.7	5	83.3
Fear for her children's safety	2	33.3	4	66.7
Dealing with threats from the abusive partner that he will get custody of the children	0	0	6	100
Fear that she won't be believed in Court	3	50	3	50
Having a lawyer that says woman abuse is not a relevant factor	2	28.6	0	0
Dealing with an abusive ex-partner who creates issues with visits	2	33.3	4	66.7
Dealing with an abusive ex-partner who criticizes her to the children for "breaking up the marriage" without acknowledging her right to live free from abuse	2	33.3	4	66.7
Feeling overwhelmed by the complexity of family court proceedings	0	0	6	100
Feeling frustrated by numerous motions brought forward by the ex-partner	4	57.1	1	16.7
Feeling pressured to participate in mediation when it feels difficult to speak honestly in front of an abusive ex-partner	4	66.7	0	0
Feeling emotionally and financially drained by family court proceedings	1	16.7	5	83.3
Feeling disempowered by her lawyer	3	50.0	2	33.3
Dealing with an abusive ex-partner who refuses to respond to court documents	2	33.3	3	50.0
Not having money for herself and children to live on before financial issues are addressed in court	2	33.3	4	66.7
Dealing with intervention by Children's Aid Society because of her partner's abuse	2	33.3	4	66.7
Having her children removed because of her partner's abuse	4	80.0	1	20.0
Feeling pressured to accept Joint Custody agreements to look like a cooperative parent even if it does not feel like the best option for herself and the children	5	83.3	1	16.7
Not knowing how to get the abusive ex-spouse out of the house before it sells	6	100.0	0	0

The lawyers who participated in our study make an effort to assist abused women who don't have adequate resources to hire a lawyer on their own. 66.7% of the lawyers reported that they accept legal aid. 80% reported they assist women with two hour legal advice certificates. 83.3% offer payment accommodations for women who require it. 16.7% said they have ever opened a file without a retainer. The lawyers noted that even when abused women can afford to pay for a lawyer, they may have trouble getting one as quickly as they need to.

#### **Lawyer's voices**

*You may be able to get a legal aid certificate but you may not be able to get a lawyer on a timely basis and if there is a court case coming up in three or four days there may not be a lawyer available.*

*I wouldn't say a lack of lawyers I would say it's more of an issue of finding somebody appropriate quickly. I mean well I don't know 30 people on the referral list and you can phone everybody on the referral list in one day and you might get consultation appointments with somebody a week or two in advance but won't get called back from other folks. And it's very hard to find somebody who knows anything let alone specializes in abuse issues because they don't have little captions underneath their names saying well this person deals with abuse issues and this person looks after only husbands. You don't get that kind of direction and there is a reason for that and nonetheless it makes it that much more difficult to find somebody. And as I was saying earlier I've got a two-week waiting period now for anybody to see me including my own clients I have right now. Just because it's really freaking busy right now. So if I get a call from somebody to get an ex parte motion returning to court next week, can you take my case I'm going to say no and it's not that I don't want to help them I just can't fit them in the queue.*

The lawyers also talked about how difficult it is for abused women to get good lawyers because their cases are complicated and require a lot of time, so even the lawyers who are highly qualified in this area try to limit their exposure to these cases. The combination of the complexity of the cases, limited funding from legal aid, and the fact that abusers try to drag out the cases unnecessarily combine to increase the difficulties for lawyers

representing abused women in the family court system. The difficulties are inevitably passed on to abused women.

**Lawyer's voices**

*I actually screen my cases so that I don't take on not just now but in the past, I deliberately screen when people call me so I can see whether I can take their case because I can only take so many difficult cases at once. And there just seems to be so many difficult cases out there and I mentally can't handle them all so I'm trying to restrict the number of cases that I take on.*

Like the survivors and the community advocates, the lawyers complained that abusers manipulated the system.

**Lawyer's voices**

*Well either they have to be more forceful at the settlement conference stage and set these guys straight or the system is absolutely going to collapse. There is no one putting pressure on them. Well if he can't settle then we'll just appoint the next pretrial date and somebody called me with a trial Management conference date and there's no point to lean on them. And the problem is you have an abuser who is a power control freak and he is dragging it on and dragging it on and he's getting exactly what he wants he's dragging it on forever and it's exactly what he wants to do.*

*We're going into the complexities and I'm saying how difficult some of the cases are that we are faced with and particularly when you're working with an abuser who uses all kinds of strategies to get back at her.*

These perceptions are consistent with the survivors in our sample as well as the experiences of survivors in other studies that have found abusers being allowed to continue to abuse their former partner through the family courts (Berger & Rosenberg, 2008). For lawyers, the difficulty of dealing with an abuser made helping abused women even less appealing. Given their propensity for manipulation, abuse, and harassment, it is easy to see how abusers can continue to hurt the women they abused before separation by making thing difficult for anyone who attempts to assist them after separation, contributing to the women's continuing isolation.

The lawyers were aware of the role that advocates play in helping survivors to navigate the family court system. All of the lawyers reported that the abused women who came to see them sometimes came with an advocate. Of the lawyers who had clients come in with advocates, 100% reported the advocates served in a support only role. Some of the lawyers expressed frustration with advocates who they said gave the women unrealistic expectations, or were not appreciative enough of the work that lawyers do on these cases. Overall, the impression was that there is a lack of productive communication and coordination between lawyers and advocates.

### ***Judges' Perspectives***

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Our sample included three family law specialist judges, two of whom are designated to Durham Unified Family Court and one judge who cycles in and out of Durham family court. The judges indicated that high case loads required moving family law cases through the system quickly. The low number of specialist judges further limited the time available to deal with these complicated cases. The judges echoed the other respondents about the causes of abused women's difficulties getting legal representation, citing legal aid funding, the amount of time it takes to find an appropriate lawyer and prepare the documents, and the difficulty of finding qualified lawyers to deal with these cases.

### ***Judge's Voices***

*First is the challenge of finding legal counsel. Legal aid as a whole is another problem but there is a real system that you need to go through to file the materials and we have a very good area director we are really blessed here in this community with really good people and we have a very good area director. But sometimes it takes time and sometimes it's difficult to find Counsel who are prepared to represent these people. It's a real challenge because they're not easy cases. They are really tough. There was a time where every young lawyer started out doing legal aid work and I think*

*that they got away from that to some extent. And part of it is the limits of time...the time limits on legal aid as all of the hourly rate pales in comparison to what most people can earn. Otherwise they are better to work as duty counsel rather than legal aid because they don't have to do the same amount of paperwork and these are really difficult cases and some people don't want to do it.*

*They are very, very difficult cases and...you need experienced lawyers who are people who understand.*

*Just simply a lack of resources quite often they cannot afford for various reasons a lawyer privately and legal aid I'm told is becoming so restrictive that fewer and fewer lawyers are prepared to undertake cases under legal aid and that's too bad. And it's also a process of application which takes time and people often end up here with no legal advice or summary legal advice you have counsel here but they can only do so much. And people expect too much of those individuals and here's the file and here is my problem and what do I do and it's asking way, way too much. I think we are really having a problem with legal aid not being available and not being available quickly enough which is ridiculous in the circumstances.*

*One of the difficulties that you will hear here anyways is we were under resourced to begin with and again demographic has exploded and you are right, there are statistics that will confirm that the percentage of unrepresented litigants continues which was always high here continues to either maintain or slightly increase. So as I understand it currently over 60 some percent of cases that come through this court particularly have one unrepresented litigant in them. The difficulty is multi-issue right from and frankly is there an increase of unrepresented litigants up and confirmed. But the degree of complexity that they are bringing in my view is up.*

According to the judges, abused women who are unrepresented in the family courts place an extra burden on the court system because their cases take longer to deal with than those cases where both parties have legal representation.

### **Judge's voices**

*Well there is because it takes more time and that has kind of a snowball effect and you don't get to other things and everybody's case here is important. We can't just say that unrepresented women's cases are important, everybody's case is important and we're trying to deal with and find a balance so when you have anybody who is unrepresented the cases take a lot more time because you have to have to ask more questions. And part of the problem is that there is a lot of wasted time because parties don't file the correct material....So the unrepresented take up a significant amount of time. And the amount of time taken is a larger proportion of time than if both parties were represented. Because if both parties are represented the lawyers know what the issues are. Most of the time they know what the issues are.*



The judges also described several of the risks the women who are unrepresented face in court.

#### **Judge's voices**

*The first one with me is not getting the order that they should have because the information is not being provided and that's the key. They have to provide the information and they have to ask for the right things.*

*There are definitely risks and first of all I find that the number one problem is that people don't even know what to ask for so they come to court the first time and everything is wrong and that sets them way back. Secondly I don't think that they realize what they can do financially quickly in other words what steps can be taken to get money that's owed to them and thirdly there's a real lack of putting together the proper documentation to get emergency orders and we get them all the time and I want this and I want that and there's nothing in the documentation that warrants that and I think the final thing is very often children, being the ones who are lost and Mom and Dad are fighting and was there a good reason that mom had to leave with the children and at the end of the day because Mum doesn't have the legal advice doesn't take the steps that are necessary and so it's the kids that really, really suffer not just financially but also emotionally every which way.*

The judges were aware that the risks to the women and children were also risks to them as they attempt to balance evidentiary requirements and the risk of further harm to abused women and their children.

#### **Judge's voices**

*That's why these cases are challenging for judges. Cases involving women and children are. Nobody wants their name in the paper. Nobody wants to put somebody at risk.*

The judges had ideas about how to deal with the problem of unrepresented women in the courts. They suggested increasing legal aid, making sure lawyers who accept it are paid more, increasing training for lawyers and judges, and creating a resource guide that lists the available services for each community and explains what they offer.

#### **Judge's voices**

*Number one is legal aid has to become a modern system and it's so outdated it is ludicrous. Now I find that in Oshawa, family court is pretty good as there is at least two to four duty counselors and I*

*think that that's really good but I think they need to have a system of priorities and I think that if an individual is coming in unrepresented and it's an emergency situation they should be number one and I find that at four o'clock in the afternoon the poor individual finally gets to see duty counsel when all of these other people have been coming in for advice for an hour and whatever and four o'clock is not the time to be coming into court trying to get an emergency motion or get protection etc. etc. So I think that they need to really try to prioritize. I think they have to have a triage system like hospitals do and this case is abuse and this is an emergency and I don't see it being done that way at all. And that's not to criticize it is just somebody saying that maybe they have to build into it all a new duty counsel system and I don't know what you do to convince the province to back up that. Adequately funded legal aid that's the problem people aren't willing to take it as lawyers anymore and the ones that do take it I feel sorry for them because they are inundated and they come up to court and they have so many cases and that's tough on them too trying to represent so many people all at the same time under very disturbing circumstances.*

*You know what I think that lawyers and judges need more training because at one time 15 to 20 years ago there was a lot and I think that has kind of been pushed on the back burner a little bit and I don't mean outside and I don't find if I look at seminars that I go to as a judge and as I used to do as a lawyer there is fewer and fewer legal seminars on this aspect. And I think a lot of it is we need to know what legal possibilities are and number two we need to know what resources are there.*

Although the specialist judges felt that excellent training was available and that they were personally highly trained and experienced in family law cases, one judge who gave an example of how judges could lay down the law with abusers by being tough on them inadvertently demonstrated the inadequacy of existing safety precautions and court advocacy of inappropriate “treatment” for abusers.

### **Judges' voices**

*You have a judge who can look somebody in the eye and say you are going for anger management counseling where's your certificate, remember we set up this pickup and drop-off access exchange for the children with the provision that you are at curbside and you stay in the house. And children because they are now 11 and 12 years of age walk between you and what's this about somebody getting out of the door, it's a breach and look them in the eye every day mano a mano.*

While this judge clearly believed that they were doing right by survivors of abuse, having the children walk between the car and the house hardly provides safety for abused women, and

essentially forces them into ongoing contact with their abuser with no real protection. Likewise, anger management is not an appropriate treatment for abusers, so ordering it would most likely be useless to decrease the abusers' violence and abuse. At the same time, judges or mediators who see that an abuser has been ordered into anger management may expect abused women to "compromise" on custody or access because of it. In effect, ordering "treatment" with no provision for actually monitoring changes in behavior puts abused women and their children at more risk, not less. Judges, like the family law support workers, didn't seem to focus much on the real safety issues for abused women and children going through the family court system.

In addition to the problem of finding qualified lawyers and getting adequate legal aid to pay them to take these cases, the judges also talked about the emerging challenges presented by what they perceived as increasing mental illness, illiteracy, and language barriers. These observations are not surprising given the region's rapid growth and increasing diversity.

## DISCUSSION

This needs assessment and gap analysis for services to abused women unrepresented in the family law system sought to establish an empirical foundation for policy and programs that serve abused mothers in Ontario. Our most striking findings highlight the amount and variety of violence and abuse reported by survivors following separation. It seems that the family law trend toward preserving the family after separation also preserves the opportunity for abusers to exert control over their former partners and their children. The serious violence and abuse that drives mothers to seek divorce despite what are often financially difficult circumstances must be taken seriously in the family courts. It is not enough for women to be able to call the police when their abuser commits a crime. The family courts and community services need to create the conditions that will allow women to safely leave abusers, do what is best for their children, and sustain independence so that they don't have to go back.

A substantial body of research documents the prevalence of separation and divorce assault (Anderson et al., 2003; Brownridge et al., 2008; DeKeseredy, Rogness, & Schwartz, 2004; Hardesty, 2002; Hotton, 2001; Jaffe et al., 2002; Kurz, 1996; McMurray, Froyland, Bell, & Curnow, 2000; Toews, McKenry, & Catlett, 2003). However, not enough attention has been paid to the intersections of violence and abuse after separation with a family court system that is increasingly likely to force abused mothers into ongoing contact with their abuser (Boyd, 2003; Fields, 2008). The limited research on outcomes for children following divorce that considers the quality of the relationship prior to and following divorce indicates that continued exposure to "high conflict" is harmful for children (Jaffe et al., 2003). Unfortunately, the courts have all but ignored these findings on harm to children from

continued exposure to domestic violence. Although there is a sizeable body of research on how exposure to woman abuse harms children, the vast majority of the family studies research cited in support of “friendly parent” and other family preservation initiatives simply ignore the existence of violence and abuse (Bancroft, 2004; Bancroft & Silverman, 2002; Kernic, Monary-Ernsdorff, Koepsell, & Holt, 2005; Lemon, 1999; National Council of Juvenile and Family Court Judges, 2007; Peled, Jaffe, & Edleson, 1995). Family courts cannot continue to ignore the research on the outcomes for children, much less abused mothers, in favour of efforts to preserve families that sound nice, but contradict the relevant research.

Our study highlights the need to take the safety of abused women and their children seriously. It also shows how current family court processes impede women’s efforts to secure safety and sustainable independence for themselves and their children. Although well intentioned, family court processes which are designed to prevent divorce from becoming unnecessarily adversarial are inappropriately applied to cases where there is a history of abuse. These cases are by definition already adversarial, and it is unjust and unsafe to further burden mothers who are attempting to leave an abusive relationship with pressure to negotiate, collaborate, and cooperate with their abuser.

Finally, the lack of appropriate or adequate legal and financial support for abused mothers following separation is very clear. Too many abused mothers lack the resources to navigate the existing family court process. The outcome of this lack of resources is that abused women are denied justice as the courts effectively fail to consider their safety or survival needs. This means that those most in need of protection are disproportionately

likely to fall through the cracks. Abused mothers experience the lack of regard for their safety and survival as an extension of the abuse their ex-partner inflicted upon them.

### **Recommendations**

Each population in our study indicated the need for greater information exchange and service coordination between the family court, lawyers, judges, advocates, family law support workers, and survivors. It is clear that even the limited resources available are not currently being used to their highest potential due to a lack of support for abused women in figuring out what is available to them, how to access what is available, and being apprised of their rights throughout the process.

Each population in our study also pointed to the need for greater resources for the family court system in Ontario, including but not limited to:

- increased legal aid funding
- increased income eligibility for legal aid
- increased assistance for people trying to navigate the family court system
- decreased pressure for abused mothers to negotiate with their abuser for child support and visitation
- decreased case load for family court judges
- increased resources for training of family court staff, community advocates, lawyers, and judges about the nature of woman abuse before and after separation and its impact on children

Our results also point to some of the effects of inadequate funding for the basic needs and services that could enable abused mothers to separate from their abusers more safely including but not limited to:

- affordable housing
- income support
- child care
- transportation
- increased access to emergency support and resources for survivors
- longer term aid to assist abused mothers in the transition to independence

### ***Limitations***

Like any study, ours has limitations that need to be considered when interpreting its results. First, the small sample size for this study means that the results are not statistically generalizable. Our use of purposive sampling enabled completion of the study in a short time period and on a small budget, but further limits the generalizability of our results.

What we can take from this exploratory study is information about the problems experienced by some survivors, lawyers, judges, advocates, and family law support workers in the region. Their responses point to some basic short term solutions to some of the problems faced by abused mothers navigating the family court system. They also point to areas where further discussion and research are required.

### ***Future research***

Areas for future research include specific studies targeting underserved populations. These should be designed as separate studies that can adequately take into account the needs of specific communities. The disproportionate violence against First Nations women in particular merits increased research into violence prevention and intervention for this population. For immigrant women, research should use interviewers and research assistants that are fluent in the languages of the women studied. Since communities differ, it would make sense to make this a comparative study. The immigration-related needs of immigrant women must be considered, and any solutions need to come from the women that would be affected. Women with disabilities experiences of violence and abuse are understudied, so interventions with this group require community-specific investigation. Our investigation revealed the additional barriers facing women from these populations, but

relied on voices other than survivors'. The survivors' voices are necessary to fill out this picture.

In addition to the need for research with underserved and at-risk populations, there is a need for research on the outcomes of different custody and access arrangements for abused women and their children. This research needs to include the voices of the children. It should also include longitudinal studies to track outcomes over time. More research is needed on the factors that enable abused women to successfully separate from abusers and build their lives. Since they are the source of the problem, more research must also focus on abusers. Studies are needed to document patterns in abuser behavior across relationships and over time, and the findings should be considered in determining custody, support, and access. Ongoing court monitoring is needed to collect information on the outcomes abused women and their children are seeing in the family courts. Without this type of information, it will be difficult to establish what works to ensure the best outcomes for abused mothers and their children.



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Appendix I

**EXPERIENCES AS A WOMAN-ABUSE SURVIVOR  
UNREPRESENTED IN THE FAMILY LAW SYSTEM  
-A SURVEY FOR SURVIVORS**

This is a survey of women who do not have lawyers in the family law process. It is sponsored by the Ontario Ministry of the Attorney General and is being conducted by researchers affiliated with Luke's Place Support and Resource Centre. Please read the instructions for each section carefully and answer each question as honestly as you can. Please note that any information you provide will be kept *completely confidential*. Participation in this study is also *strictly voluntary*.

Please only answer those questions that you wish.

It will take different people different lengths of time to fill in this survey. Some will not take too long to complete it; others will take longer. But all of your answers are important to us, so take your time and please be as honest as possible.

The results of this survey will be made widely available and used to improve the lives of many women like you. If you have any questions, please contact Margot McKinlay at 905-728-0978.

Thank you for taking the time to complete this questionnaire.



## **Section I**

First, we would like to ask you some general background questions. This information will allow us to compare your responses to other women. Please circle only one number which best represents your answer. Where there are blanks, please write out the answer. Please note that your responses will be kept completely confidential.

a) How old are you? \_\_\_\_\_

b) Where do you live?

a city.....1

a town.....2

a village.....3

in the country.....4

c) Do you identify yourself as an Aboriginal person (e.g., Metis, status/nonstatus Indian, Inuit) ?

Yes.....1

No.....2

d) Please circle the number that best represents the ethnic or cultural group **you identify with?**

Central American (El Salvador, Honduras, etc.).....1

Scandinavian (Denmark, Sweden, Norway).....2

French Canadian.....3

English Canadian.....4

British (Scotland, Wales, England, N. Ireland).....5

Western European (France, Germany, Holland, etc.).....6

Eastern European (Russia, Poland, Hungary, etc.).....7

Southern European (Italy, Spain, Portugal, Greece, etc.).....8

Far Eastern (Japan, China, India, Hong Kong, etc.).....9

African.....10

Caribbean.....11

Middle Eastern (Israel, Lebanon, Iran, Iraq, etc.).....12

Latin American .....13

Other (please specify) \_\_\_\_\_ .....14

- e) Are you a recent (i.e., within the last five years) immigrant to Canada?  
 Yes.....1  
 No.....2
- f) Are you a refugee from another country?  
 Yes.....1  
 No.....2
- g) What is the language you are the most comfortable speaking, reading and writing?  
 \_\_\_\_\_
- h) If English is not your first language, do you speak enough English to communicate effectively?  
 Yes.....1  
 No .....2
- i) Do you have a physical disability? (Example: mobility issues, visually impaired)  
 Yes.....1  
 If Yes please identify \_\_\_\_\_  
 No.....2
- j) Do you have a psychological disability? (Example: depression, anxiety)  
 Yes.....1  
 If Yes, Please identify \_\_\_\_\_  
 No.....2
- k) Do you identify as a Deaf or Hard of hearing woman?  
 Yes.....1  
 No.....2
- l) What is your religious affiliation or background?  
 Catholic .....1  
 Jewish .....2

Protestant.....	3
Muslim.....	4
Other.....	5
None.....	6

**m) What is your highest level of education?**

Some High School.....	1
High School Diploma .....	2
Some College/University.....	3
Undergraduate degree.....	4
Graduate Degree.....	5

**n) Prior to separation, who was the main income earner in your family?**

Me.....	1
My husband or the man I lived with.....	2
Both of us made roughly equal amounts of money.....	3

**o) Please provide your TOTAL yearly family income before separation. \$\_\_\_\_\_**

**p) Please provide your yearly family income after separation. \$\_\_\_\_\_**

**q) Do you now rely on funds from social services?**

Yes.....	1
No.....	2

**r) Do you now rely on friends and family for income support?**

Yes.....	1
No.....	2

**s) Has your religion, race, immigration status, language, age, level of education, income or disability created any difficulties for you or your children in the Family Law process?**

Yes.....1

No.....2

If yes, please specify which issue and how it has affected your situation: \_\_\_\_\_

\_\_\_\_\_

## **Section II**

Now, we would like to ask you some questions about your family. Please **circle the number** which best represents your answer. Where there are blanks, please write out the answer.

a) Were you and your abusive ex-partner...

Married.....1

Living together.....2

Not living together.....3

b) How long did your relationship last? \_\_\_\_\_

c) Do you have any children?

Yes.....1

No .....2

**(IF NO, PLEASE GO TO SECTION III...)**

d) How many children do you and your ex-partner have who are...

Less than 5 years old: \_\_\_\_\_

5 to 12 years old: \_\_\_\_\_

13 to 17 years old: \_\_\_\_\_

18 and older: \_\_\_\_\_

## **SECTION III**

We realize that it may be difficult to discuss some of your experiences with your ex-partner, but if we may, we would like to ask you some questions about how he treated you. Below is a list of some things that he might have done to you. Again, your responses will be kept completely confidential.

a) In the table below, **please circle the corresponding number** to indicate how many times each of the following happened **before** and **during/after** separation from your partner.  
Use the following categories: Never – 1, Once – 2, Occasionally - 3, Often - 4

<i>Incidents</i>	<i>Before Separation</i>	<i>During/After Separation</i>
Yell at you	1 2 3 4	1 2 3 4
Insult or swear at you	1 2 3 4	1 2 3 4
Accuse you of being a lousy lover	1 2 3 4	1 2 3 4
Accuse you of having affairs with other men	1 2 3 4	1 2 3 4
Call you fat or ugly	1 2 3 4	1 2 3 4
Keep you from seeing your family/friends	1 2 3 4	1 2 3 4
Behave in a jealous or controlling fashion	1 2 3 4	1 2 3 4
Call you multiple times when you were not together	1 2 3 4	1 2 3 4
Follow you or keep an eye on you in other ways	1 2 3 4	1 2 3 4
Insult you in front of the children	1 2 3 4	1 2 3 4
Make you ask him for money	1 2 3 4	1 2 3 4
Make you account to him for money you have earned/spent	1 2 3 4	1 2 3 4
Destroy something that belongs to you	1 2 3 4	1 2 3 4
Threaten to hit or throw something at you	1 2 3 4	1 2 3 4
Grab you or slap you	1 2 3 4	1 2 3 4
Push or shove you	1 2 3 4	1 2 3 4
Throw something at you that could hurt	1 2 3 4	1 2 3 4
Make you fear for your life	1 2 3 4	1 2 3 4
Twist your arm or pull your hair	1 2 3 4	1 2 3 4
Kick you	1 2 3 4	1 2 3 4
Punch or hit you with something that could hurt	1 2 3 4	1 2 3 4
Slam you against a wall	1 2 3 4	1 2 3 4
Choke you	1 2 3 4	1 2 3 4
Burn or scald you on purpose	1 2 3 4	1 2 3 4

Beat you up	1 2 3 4	1 2 3 4
Use a knife or a gun on you	1 2 3 4	1 2 3 4
Threaten you with physical force to make you have sex	1 2 3 4	1 2 3 4
Use physical force to make you have sex	1 2 3 4	1 2 3 4
Insist on having sex with you when you didn't want to (but did not use physical force)	1 2 3 4	1 2 3 4
Make you upset by trying to get you to do what he had seen in pornographic pictures, movies, or books.	1 2 3 4	1 2 3 4

b) Did you ever call the police because of something your ex-partner did or said to you?

Yes.....1

No.....2

c) Were criminal charges laid against your partner in your situation?

Yes.....1

No.....2

**SECTION IV**

The next set of questions are about experiences you may have had in family court. **Please circle the number** which best represents your answer. Where there are **blanks, please write out your answer.**

a) What issues were or are involved in your family law case? **Please circle either yes or no** for each of the following.

	<u>Yes</u>	<u>No</u>
Custody	1	2
Access	1	2
Child Support	1	2
Spousal Support	1	2
Division of Property	1	2

Exclusive Possession of Matrimonial Home	1	2
Restraining Order	1	2
Other _____	1	2

b) Have you used any of the following services during your case? Was it helpful?

**Please circle 1 for yes and 2 for no.**

Service	Used the Service		Found it Helpful	
	Yes	No	Yes	No
Family Law Info Centre	1	2	1	2
Duty Counsel Lawyers	1	2	1	2
Mediation Services	1	2	1	2
Family Law Advice Clinics	1	2	1	2
Two-Hour legal advice certificates	1	2	1	2
Paralegals	1	2	1	2
Luke's Place	1	2	1	2
Shelter Advocates	1	2	1	2
Counselling Services	1	2	1	2
Other	1	2	1	2

c) Is your family court case finished?

Yes.....1

No .....2

d) How long did your case take or if it is on-going, how long has your case taken to this point?

Less than one year.....1

Between 1 and 2 years.....2

Between 2 and 4 years.....3

More than 4 years.....4

e) If your family court case is done, **please circle** the appropriate number for what happened in each of the following areas. If you need to circle more than one number, please explain under the last option marked “other”.

**i. Custody & Access:**

- Sole Custody with unsupervised access to the father.....1
- Sole custody with supervised access to the father.....2
- Sole custody with no access to the father.....3
- Joint custody with the children mostly living with you and having access to the father.....4
- Joint custody with the children spending roughly the same amount of time with you and the father.....5
- Joint custody with the children mostly living with the father and having access to you.....6
- Sole custody to the father with unsupervised access to you.....7
- Sole custody to the father with supervised access to you.....8
- Sole custody to the father with no access to you.....9
- CAS has custody of the children.....10
- Other \_\_\_\_\_ .....11

**ii. Support:**

- Child support paid to me.....1
- Child support paid to him.....2
- Spousal Support paid to me.....3
- Spousal Support paid to him.....4
- Both paid to me .....5



- Both paid to him.....6

**iii. Division of Property:**

I received the matrimonial home.....1

My abusive ex-partner received the matrimonial home.....2

The matrimonial home was sold and the money divided .....3

- Other assets (Example: savings accounts, pensions, RRSP's, car, furniture)

I feel I received my fair share of our assets.....1

I do not feel I received my fair share of our assets.....2

**iv. Restraining Order:**

- Obtained against ex-partner

Yes.....1

No.....2

- Mutual Restraining Order

Yes.....1

No.....2

- Unsuccessful in getting a restraining order

Yes.....1

No.....2

**f) Has CAS been involved in your situation?**

Yes .....1

No.....2

**g) Did you apply for an Emergency Motion?**

Yes.....1

No.....2

If yes, what was the outcome? (example; restraining order)

\_\_\_\_\_

**SECTION V**

**Now we would like to ask you some questions about how your custody and access arrangements are working. Please circle the appropriate number(s) for each question.**

a) If your abusive ex-partner has been granted access visits with your children, has he been using the visits?

Yes.....1

No.....2

b) If you have been granted access visits with your children, has your abusive ex-partner been allowing the visits?

Yes.....1

No.....2

c) **Please circle** whichever of the following are true for you with respect to access visits:

No

difficulties.....1

Angry scenes at

exchanges.....2

Feeling unsafe at exchanges.....3

Ex-partner assaulting me at

exchanges.....4

Ex-partner using access visits to criticize me to the

children.....5

Ex-partner using access visits to get information from the

children.....6

Ex-partner refusing to return clothing or items needed by the

children.....7

Ex-partner changing times of access visits without consulting

me.....8

Ex-partner not showing for access visits when children are expecting  
him.....9

Fear about my partner using controlling or abusive behaviour with the children  
when I am not there.....10

Having to force children to go on access visits when they are crying and don't  
want to  
go.....11

Continuous conflict about school issues, medical issues, activities, holidays,  
etc.....12

Ex-partner using access exchanges to pressure me to  
reconcile.....13

Supervised access visits done by ex-partner's parents or girlfriend who deny his  
abuse.....14

Your abusive ex-partner refuses to give you  
access.....15

Your abusive ex-partner refuses to return the  
children.....16

Other (please  
specify).....17

**SECTION VI**

The next questions are about lawyers' involvement in your family law case. **Please circle the number** which best represents your answer. Where there are **blanks**, please write out your answer.

a) How much money have you spent representing yourself in your family law case to date?  
(Example: time from work, childcare, parking, fax/photocopy)  
\$ \_\_\_\_\_

b) Have you ever had a lawyer at any point in your family law case?

Yes.....  
1

No.....

2

**IF NO, PLEASE REFER TO QUESTION g) ON PAGE 10**

c) How did you pay for your lawyer(s)? (Example: borrowed from friends/family, legal aid, yourself):

\_\_\_\_\_

d) How many lawyers have you had during your case?

\_\_\_\_\_

e) How much money have you spent on your family law case to this date? \$

\_\_\_\_\_

f) Did you know about legal aid when you began looking for a lawyer?

Yes.....

1

No.....2

g) Did you know what the requirements were to receive legal aid?

Yes

.....1

No.....2

h) Did you apply for legal aid?

Yes.....1

No.....2

i) If no, why didn't you apply?

I didn't think I would

qualify.....1

I didn't want a lien against my  
property.....2

I wanted to choose my own  
lawyer.....3

Other (Please specify)  
.....4

**j) Why are (or were) you unrepresented in family court proceedings?**

Did not qualify for legal aid but could not afford the fees of a  
lawyer.....1

Ran out of legal aid due to length and complexity of  
proceedings.....2

Ran out of money due to the length and complexity of the  
proceedings.....3

Felt my lawyer did not understand the  
issues.....4

Could not find a lawyer who would accept legal  
aid.....5

Could not find a lawyer who was knowledgeable about woman  
abuse.....6

Did not have time to find a lawyer given the emergency nature of my situation.....7

Other (Please describe.)  
.....8

**k) At the time when you didn't have a lawyer, what were the greatest difficulties? (circle any that apply.)**

Paperwork.....1

Understanding the procedure.....2

Court/staff response.....3

Judiciary response.....4

Knowing what evidence about abuse to submit and how.....5

Knowing how to act in court.....6

Dealing with ex-partner and/or his lawyer.....	7
Other (Please specify) _____.....	8

**SECTION VII**

**Abused women face different challenges in the Family Law Process. Some challenges are related to a woman’s person situation (i.e. women dealing with disability, Deaf/Hard of hearing women, women with psychological challenges, women facing racial barriers, First nations women, immigration women, women living in a rural community, women living in poverty, etc.). Some of the following items are specific to those situations.**

**We would ask all women to complete the question on the following page.**

a) Please indicate on the chart on the following page, any of the following challenges/barriers you faced in the Family Law process: **(Please circle all that apply).**

Not enough support services and resources	1
Difficulty with the distance to travel to Court or support services	2
Transportation difficulties	3
Isolation	4
Lack of anonymity and/or lack of confidentiality	5
Difficulty with access to services (justice system, social services, etc.)	6
Sporadic access to police	7
Dealing with service providers who are relatives or friends	8
Economic conditions	9
Length of time involved to sell a farm	10
Dealing with community attitudes about separating	11
Dealing with a patriarchal attitudes toward women	12
Fear about partner’s access to guns	13
Language barriers	14
Difficulty finding an effective translator	15
Fear of harming immigration status	16
Fear of being deported	17
Separating from a husband who sponsored me into this country	18
Pressure from my community to stay in the marriage	19

Difficulty finding support services that understand my particular issues	20
Difficulty accessing legal help	21
Dealing with discrimination and/or racism	22
Fear of the police; not trusting police	23
Fear of how police will treat my partner	24
Difficulty finding affordable housing	25
Fear that my partner will take children out of the country	26
Fear that my children will be taken away	27
Services not understanding traditional ways of healing	28
Fear that chiefs and council members will support the abuser	29
Fear that I have to move outside of my community to get away from abuse	30
Fear that I won't be believed or abuse won't be taken seriously	31
High tolerance for violence in my community	32
Difficulty leaving my abuser because he is my caregiver	33
Difficulties with physical accessibility to court, legal, and/or support services	34
Being treated as if I am a child or lacking in intelligence	35
Feeling that I am supposed to be compliant and not challenge people	36
Fear about managing on my own	37
Difficulty finding physically accessible, affordable housing	38
Fear that I will be seen as an incompetent witness by police and the courts	39
Difficulty with communicating; requiring assistance in communicating	40
Fear that the court will view me as a lesser parent because of my disability	41
Feeling less powerful than the abuser	42
None of the above	43
Other	44

**b) If you have been awarded joint custody**, has your experience with joint custody been positive?

Yes.....  
...1

No.....  
2

Please explain: \_\_\_\_\_

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c) **If you were entitled to receive child support**, how much time passed before you received it?

- One to three months.....1
- Four to six months.....2
- Seven months to a year.....3
- One to two years.....4
- Over two years.....5

We really appreciate the time you have taken to complete this survey. And we'd like to assure you that everything you have told us will remain strictly confidential.

We realize that the topics covered in this survey are sensitive and that many women are reluctant to talk about their legal and relationship experiences. But we're also a bit worried that we haven't asked the right questions.

So now that you have had a chance to think about the topics, have you had any other experiences with your abusive ex-partner or with lawyers, judges, CAS workers, or mediators that you would like to tell us? Please provide this information in the space below.

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If there is another question you wish we would have asked, please indicate it here and provide your answer.

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Any other comments:

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**Appendix II**

**WORKING WITH WOMAN ABUSE SURVIVORS  
UNREPRESENTED IN THE FAMILY LAW SYSTEM  
- A SURVEY FOR COMMUNITY ADVOCATES**

**Woman abuse is: sexual, physical, emotional, verbal, financial and/or psychological.**

**Please circle the appropriate number for your response and fill in the blanks where necessary.**

1) Please describe the type of agency where you work:

- Women's service agency (e.g. shelter, community counseling centre).....1
- Immigrant service agency.....2
- Housing agency.....3
- Ontario Works.....4
- Community mental health agency.....5
- Children's service agency.....6
- Other, please describe \_\_\_\_\_.....7

2) How long have you been doing this work?

- Less than 5 years.....1

- Between 5 and 10 years.....2
- More than 10 years.....3

3) How often do you see women who have experienced woman abuse?

- All or almost all of my work.....1
- Daily.....2
- Weekly.....3
- Monthly.....4
- Several times a year.....5
- Rarely.....6

4) Do you also work with men who have been abusive in their intimate relationships?

- Yes.....1
- No.....2

5) What percentages of your clients are involved with family court proceedings?

- Less than 10 percent.....\_\_\_\_\_
- Between 10 and 25 percent.....\_\_\_\_\_
- Between 25 and 50 percent.....\_\_\_\_\_
- Between 50 and 75 percent.....\_\_\_\_\_
- More than 75 percent.....\_\_\_\_\_

6) Of your clients involved with family court, what are the two **most pressing** family law issues for most of them? (**Select only two.**)

- Custody and access.....1
- Restraining order.....2
- Child support.....3
- Spousal support.....4
- Exclusive possession of the matrimonial home.....5
- Property division.....6
- Getting lawyers and/or family court to recognize abuse as a factor that should

influence outcomes.....	7
Emergency Motion.....	8
Exclusive possession of the family home.....	9

**7) What percentage of your clients who have experienced violence is also involved with criminal court proceedings?**

Less than 25 percent.....	1
Between 25 and 50 percent.....	2
Between 50 and 75 percent.....	3
More than 75 percent.....	4

**8) What percentage of your clients who have experienced violence is also involved with the Children’s Aid Society?**

Less than 25 percent.....	1
Between 25 and 50 percent.....	2
Between 50 and 75 percent.....	3
More than 75 percent.....	4

**9) In your work, what is your estimate of the percentage of abused women who do NOT have a lawyer?**

Less than 10 percent.....	1
Between 10 and 25 percent.....	2
Between 25 and 50 percent.....	3
Between 50 and 75 percent.....	4
More than 75 percent.....	5
Don’t know.....	6

**10) Why are (or were) most of the abused women you see unrepresented in family court proceedings?**

Did not qualify for Legal Aid but couldn’t afford the fees of a lawyer.....	1
Ran out of Legal Aid due to length and complexity of proceedings.....	2
Ran out of money due to the length and complexity of the proceedings.....	3

Abused woman felt her lawyer did not understand the issues.....	4
Client couldn't find a lawyer who would accept Legal Aid.....	5
Client couldn't find a lawyer who was knowledgeable about woman abuse.....	6
Client didn't have time to find a lawyer given the emergency nature of her situation....	7
Other (Please describe.) _____.....	8

**11) At the time when abused women don't have a lawyer, what are the greatest difficulties they face? (Circle any that apply)**

Paperwork.....	1
Understanding the procedure.....	2
Court/staff response.....	3
Judiciary response.....	4
Knowing what evidence about abuse to submit and how.....	5
Knowing how to act in court.....	6
Dealing with ex-partner and/or his lawyer.....	7
Inadequate knowledge of the law.....	8
Other (Please specify) _____.....	9

**12) Where do you refer these women for assistance? (please circle all that apply)**

I assist them myself.....	1
I refer them to Luke's Place.....	2
I provide them with a 2-hour legal advice certificate.....	3
I refer them to Legal Aid Ontario to apply for legal aid.....	4
I refer them to family court duty counsel.....	5
I refer them to the Family Law Information Centre.....	6
Other, please describe _____.....	7

**13) If you provide assistance yourself, what does that include?**

Providing informational pamphlets and materials produced by your organization.....	1
Providing informational pamphlets and materials produced by other organizations....	2
Discussing her case with her and providing emotional support.....	3

- Assisting her in completing court documents.....4
- Assisting her in preparing her affidavit.....5
- Accompanying her to Court or legal appointments.....6
- Other, please describe \_\_\_\_\_.....7

14) Which of the following incidents are commonly identified to you by abused women going through family court proceedings? Please **circle** each item as follows: **Never – 1, Occasionally – 2, Often -3**

Incidents	Never	Occasionally	Often
Difficulty finding a lawyer	1	2	3
Difficulty affording a lawyer	1	2	3
Not qualifying for Legal Aid	1	2	3
Dealing with pressure from the abusive partner to reconcile	1	2	3
Dealing with ongoing harassment and control by the abusive ex-partner	1	2	3
Fear for her own safety	1	2	3
Fear for her children’s safety	1	2	3
Dealing with threats from the abusive partner that he will get custody of the children	1	2	3
Fear that she won’t be believed in Court	1	2	3
Having a lawyer that says woman abuse is not a relevant factor		2	3
Dealing with an abusive ex-partner who creates issues with access visits (not showing up, arbitrarily changing visits without consultation)	1	2	3
Dealing with an abusive ex-partner who criticizes her to the children for “breaking up the marriage” without acknowledging her right to live free from abuse	1	2	3
Feeling overwhelmed by the complexity of family court proceedings	1	2	3
Feeling frustrated by numerous motions brought forward by the ex-partner	1	2	3
Feeling pressured to participate in mediation when it feels difficult to speak honestly in front of an abusive ex-partner	1	2	3
Feeling emotionally and financially drained by family court proceedings	1	2	3
Feeling disempowered by her lawyer	1	2	3

Dealing with an abusive ex-partner who refuses to respond to court documents	1	2	3
Not having money for herself and children to live on before financial issues are addressed in court	1	2	3
Dealing with intervention by Children's Aid Society because of her partner's abuse	1	2	3
Having her children removed because of her partner's abuse	1	2	3
Feeling pressured to accept Joint Custody agreements to look like a cooperative parent even if it does not feel like the best option for herself and the children	1	2	3
Not knowing how to get the abusive ex-spouse out of the house before it sells	1	2	3

Other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**15) If you work with any abused women living in a rural community, which of the following difficulties do they experience in going through the Family Law process? (Please circle all that apply.)**

- Not enough support services and resources.....1
- Difficulty with the distance to travel to Court or support services.....2
- Transportation difficulties.....3
- Isolation.....4
- Lack of anonymity and/or lack of confidentiality.....5
- Difficulty with access to services (justice system, social services, etc.).....6
- Sporadic access to police.....7
- Dealing with service providers who are relatives or friends.....8
- Economic conditions.....9
- Length of time involved to sell a farm delayed the process.....10
- Dealing with community attitudes about separating.....11
- Dealing with a more patriarchal attitude toward women.....12
- Fear about partner's access to guns.....13

Other .....	14
None of the above.....	15

**16) If you work with any immigrant women who are abused, which of the following difficulties do they experience in going through the Family Law process? (Please circle all that apply.)**

Language barriers.....	1
Difficulty finding an effective translator.....	2
Fear of harming immigration status.....	3
Separating from a husband who sponsored her into this country.....	4
Pressure from her community to stay in the marriage.....	5
Difficulty accessing support services that understand my particular issues.....	6
Economic conditions.....	7
Isolation.....	8
Difficulty accessing legal help.....	9
Dealing with discrimination and racism.....	10
Fear of the police; not trusting police.....	11
Fear of how police will treat her partner.....	12
Difficulty finding affordable housing.....	13
Fear that her partner will take her children out of the country.....	14
Transportation difficulties.....	15
Fear that her children will be taken away.....	16
Fear of being deported.....	17
Other .....	18
None of the above.....	19

**17) If you work with any First Nations women who are abused, which of the following difficulties do they experience in going through the Family Law process? (Please circle all that apply.)**

Not enough support services and resources.....	1
Difficulty with the distance to travel to Court or support services.....	2
Transportation difficulties.....	3

Isolation.....	4
Lack of anonymity and/or lack of confidentiality.....	5
Difficulty with access to services (justice system, social services, etc.).....	6
Lack of trust in the police.....	7
Dealing with service providers who are relatives or friends.....	8
Economic conditions.....	9
Services not understanding traditional ways of healing.....	10
Dealing with discrimination.....	11
Fear that chiefs and council members will support the abuser .....	12
Fear that she will have to move outside of her community to get away from abuse.....	13
Fear that she won't be believed or abuse won't be taken seriously.....	14
Dealing with community beliefs and expectations.....	15
Difficulty finding affordable housing.....	16
High tolerance for violence in the native community.....	17
Fear that her children will be taken away.....	18
Other _____.....	19
None of the above.....	20

**18) If you work with any abused women with a physical or psychological disability, or who are Deaf/Hard of hearing, which of the following difficulties do they experience in going through the Family Law process? (Please circle all that apply.)**

Difficulty leaving her abuser because he is her caregiver .....	1
Difficulty accessing support services.....	2
Transportation difficulties.....	3
Difficulties with physical accessibility to court, legal, and/or support services.....	4
Dealing with discrimination.....	5
Being treated as she is a child or lacking in intelligence.....	6
Feeling that she is supposed to be compliant and not challenge people.....	7
Fear about managing on her own.....	8
Difficulty finding accessible, affordable housing.....	9
Isolation.....	10
Difficulty accessing legal services.....	11



- Fear that she will be seen as an incompetent witness by police and the courts.....12
- Difficulty with communicating; require assistance in communicating.....13
- Fear that the court will view her as a lesser parent because of her disability.....14
- Feeling less powerful than the abuser.....15
- Other \_\_\_\_\_.....16
- None of the above.....17

**19) Do you have any training or education related to family law?**

- No.....1
- Yes, please describe \_\_\_\_\_.....2

**20) Do you have any suggestions about how to reduce the number of unrepresented women who have experienced abuse in their intimate relationships and are dealing with Family Law issues?**

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**21) If woman abuse has taken place, do you consider it to be a relevant factor in family court proceedings?**

- Yes.....1
- No.....2
- Don't Know.....3

**We really appreciate the time you have taken to complete this survey. Now that you have had a chance to think about the topics, have you had any other experiences with abused women and the family law process (i.e. abused women dealing with abusive ex-partners or with lawyers, judges, CAS workers, or mediators) that you would like to tell us? Please provide this information in the space below.**

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Do you have any suggestions about what would make you more effective in supporting abused women in Family Law situations?

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If there is another question you wish we would have asked, please indicate it here and provide your answer.

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Any other comments:

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Appendix III

**WORKING WITH WOMAN ABUSE  
SURVIVORS UNREPRESENTED IN THE  
FAMILY LAW SYSTEM  
- A SURVEY FOR FAMILY LAW WORKERS**

**Woman abuse is: sexual, physical, emotional, verbal, financial and/or psychological.**

**Please circle the appropriate number for your response and fill in the blanks where necessary.**

1) Please describe the type of legal work you do:

- Legal Aid office staff .....1
- FLIC staff .....2
- Court clerk .....3
- Administrator .....4
- Other \_\_\_\_\_ .....5

2) How long have you been doing this work?

- Less than 5 years .....1
- Between 5 and 10 years .....2
- More than 10 years .....3

3) How much of your work is with women who have experienced woman abuse?

- Less than 10 percent .....1
- Between 10 and 25 percent .....2
- Between 25 and 50 percent .....3
- Between 50 and 75 percent .....4
- More than 75 percent .....5
- Don't know if the woman is abused .....6

4) How much of your work is with men who have perpetrated abuse?

- Less than 10 percent .....1
- Between 10 and 25 percent .....2

- Between 25 and 50 percent .....3
- Between 50 and 75 percent .....4
- More than 75 percent .....5
- Don't know if the man is an abuser .....6

5) If woman abuse has taken place, do you consider that to be a relevant factor in family court proceedings?

- Yes .....1
- No .....2
- Don't know .....3

6) What percentage of family law cases involving woman abuse are completed in each of the following amounts of time?

- Less than one year .....\_\_\_\_\_
- Between 1 and 2 years .....\_\_\_\_\_
- Between 2 and 4 years .....\_\_\_\_\_
- More than 4 years .....\_\_\_\_\_
- Don't know .....\_\_\_\_\_

7) Of clients who have experienced woman abuse, what are the two most pressing family law issues for most of them? (**Circle only two.**)

- Custody and access .....1
- Restraining order .....2
- Child support .....3
- Spousal support .....4
- Exclusive possession of the matrimonial home .....5
- Property division .....6
- Emergency Motion .....7

8) For female clients who have experienced woman abuse, how many are also involved with criminal court proceedings?

- Less than 25 percent .....1
- Between 25 and 50 percent .....2
- Between 50 and 75 percent .....3

More than 75 percent .....4  
 Don't know .....5

**9) For women who have experienced woman abuse, how many are also involved with the Children's Aid Society?**

Less than 25 percent .....1  
 Between 25 and 50 percent .....2  
 Between 50 and 75 percent .....3  
 More than 75 percent .....4  
 Don't know .....5

**10) Do you ever suggest mediation to abused women?**

Yes .....1  
 No .....2

**11) If yes, do you refer abused women to mediation more often if they lack financial resources to retain legal representation throughout their case?**

Yes .....1  
 No .....2

**12) Do abused women ever come with an advocate?**

Yes .....1  
 No .....2

**13) What role does the advocate play?**

Support only .....1  
 Assisting the woman to remember key questions and information .....2  
 Active advocating on the woman's behalf .....3  
 Other \_\_\_\_\_ .....4

**14) In your work, what is your estimate of the percentage of abused women do NOT have a lawyer?**

Less than 10 percent .....1  
 Between 10 and 25 percent .....2

Between 25 and 50 percent .....	3
Between 50 and 75 percent .....	4
More than 75 percent .....	5
Don't know .....	6

**15) What are the most common reasons why abused women are unrepresented in family court proceedings? The abused woman...**

Did not qualify for Legal Aid but couldn't afford the fees of a lawyer .....	1
Ran out of Legal Aid due to length and complexity of proceedings .....	2
Ran out of money due to the length and complexity of the proceedings ....	3
Felt her lawyer did not understand the issues .....	4
Couldn't find a lawyer who would accept Legal Aid .....	5
Couldn't find a lawyer who was knowledgeable about woman abuse .....	6
Didn't have time to find a lawyer given the emergency nature of her situation.....	7
Inadequate knowledge of the law .....	8
Other (Please describe.) _____ .....	9

**16) At the time when abused women don't have a lawyer, what are the greatest difficulties they face? (Circle any that apply)**

Paperwork .....	1
Understanding the procedure .....	2
Court/staff response .....	3
Judiciary response .....	4
Knowing what evidence about abuse to submit and how .....	5
Knowing how to act in court .....	6
Dealing with ex-partner and/or his lawyer .....	7
Inadequate knowledge of the law .....	8
Other (Please specify) _____ .....	9

17) Which of the following incidents are commonly identified to you by abused women going through family court proceedings? Please **circle** each item as follows: **Never – 1, Occasionally – 2, Often -3**

<b>Incidents</b>	<b>Never</b>	<b>Occasionally</b>	<b>Often</b>
Difficulty finding a lawyer	1	2	3
Difficulty affording a lawyer	1	2	3
Not qualifying for Legal Aid	1	2	3
Dealing with pressure from the abusive partner to reconcile	1	2	3
Dealing with ongoing harassment and control by the abusive ex-partner	1	2	3
Fear for her own safety	1	2	3
Fear for her children's safety	1	2	3
Dealing with threats from the abusive partner that he will get custody of the children	1	2	3
Fear that she won't be believed in Court	1	2	3
Having a lawyer that says woman abuse is not a relevant factor		2	3
Dealing with an abusive ex-partner who creates issues with access visits (not showing up, arbitrarily changing visits without consultation)	1	2	3
Dealing with an abusive ex-partner who criticizes her to the children for "breaking up the marriage" without acknowledging her right to live free from abuse	1	2	3
Feeling overwhelmed by the complexity of family court proceedings	1	2	3
Feeling frustrated by numerous motions brought forward by the ex-partner	1	2	3
Feeling pressured to participate in mediation when it feels difficult to speak honestly in front of an abusive ex-partner	1	2	3
Feeling emotionally and financially drained by family court proceedings	1	2	3
Feeling disempowered by her lawyer	1	2	3
Dealing with an abusive ex-partner who refuses to respond to court documents	1	2	3
Not having money for herself and children to live on before financial issues are addressed in court	1	2	3

Dealing with intervention by Children's Aid Society because of her partner's abuse	1	2	3
Having her children removed because of her partner's abuse	1	2	3
Feeling pressured to accept Joint Custody agreements to look like a cooperative parent even if it does not feel like the best option for herself and the children	1	2	3
Not knowing how to get the abusive ex-spouse out of the house before it sells	1	2	3

Other: \_\_\_\_\_

**18) If you work with any abused women living in a rural community, which of the following difficulties do they experience in going through the Family Law process? (Please circle all that apply.)**

- Not enough support services and resources .....1
- Difficulty with the distance to travel to Court or support services .....2
- Transportation difficulties .....3
- Isolation .....4
- Lack of anonymity and/or lack of confidentiality .....5
- Difficulty with access to services (justice system, social services, etc.) .....6
- Sporadic access to police .....7
- Dealing with service providers who are relatives or friends .....8
- Economic conditions .....9
- Length of time involved to sell a farm delayed the process .....10
- Dealing with community attitudes about separating .....11
- Dealing with a more patriarchal attitude toward women .....12
- Fear about partner's access to guns .....13
- I don't work with this population.....14
- Other \_\_\_\_\_ .....15
- None of the above .....16

**19) If you work with any immigrant women who are abused, which of the following difficulties do they experience in going through the Family Law process? (Please circle all that apply.)**



Language barriers .....	1
Difficulty finding an effective translator .....	2
Fear of harming immigration status .....	3
Separating from a husband who sponsored her into this country .....	4
Pressure from her community to stay in the marriage .....	5
Difficulty accessing support services that understand her particular issues .....	6
Economic conditions .....	7
Isolation .....	8
Difficulty accessing legal help .....	9
Dealing with discrimination and racism .....	10
Fear of the police; not trusting police .....	11
Fear of how police will treat her partner .....	12
Difficulty finding affordable housing .....	13
Fear that her partner will take her children out of the country .....	14
Transportation difficulties.....	15
Fear that her children will be taken away .....	16
Fear of being deported.....	17
I have not worked with this population.....	18
Other _____ .....	19
None of the above .....	20

**20) If you work with any First Nations women who are abused, which of the following difficulties do they experience in going through the Family Law process? (Please circle all that apply.)**

Not enough support services and resources .....	1
Difficulty with the distance to travel to Court or support services .....	2
Transportation difficulties .....	3
Isolation .....	4
Lack of anonymity and/or lack of confidentiality .....	5
Difficulty with access to services (justice system, social services, etc.) .....	6
Lack of trust in the police .....	7
Dealing with service providers who are relatives or friends .....	8

Economic conditions .....	9
Services not understanding traditional ways of healing .....	10
Dealing with discrimination .....	11
Fear that chiefs and council members will support her abuser .....	12
Fear that she may have to move outside of her community to get away from abuse .....	13
Fear that she won't be believed or abuse won't be taken seriously .....	14
Dealing with community beliefs and expectations .....	15
Difficulty finding affordable housing .....	16
High tolerance for violence in the native community .....	17
Fear that her children will be taken away .....	18
Other _____ .....	19
None of the above.....	20

**21) If you work with any abused women with a physical or psychological disability, or who are Deaf/Hard of hearing, which of the following difficulties do they experience in going through the Family Law process? (Please circle all that apply.)**

Difficulty leaving her abuser because he is her caregiver.....	1
Difficulty accessing support services .....	2
Transportation difficulties .....	3
Difficulties with physical accessibility to court, legal, and/or support services.....	4
Dealing with discrimination .....	5
Being treated as if she is a child or lacking in intelligence .....	6
Feeling that she is supposed to be compliant and not challenge people .....	7
Fear about managing on her own .....	8
Difficulty finding accessible, affordable housing .....	9
Isolation .....	10
Difficulty accessing legal services .....	11
Fear that she will be seen as an incompetent witness by police and the courts.....	12
Difficulty with communicating; require assistance in communicating .....	13
Fear that the court will view her as a lesser parent because of her disability.....	14

**Question 21 continued on the following page**

**Question 21 continued...**

Feeling less powerful than the abuser .....15  
Other .....16  
None of the above .....17

**12)** Do abused women who are unrepresented present any additional difficulties for other parts of the Family Law system (i.e. Judges, Duty Counsel, lawyers representing their partner, front counter staff, etc.)?

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**23)** Are there legislative changes you would like to see regarding woman abuse victims and the family court system?

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**24)** Do you have any suggestions about what would make you more effective in supporting abused women in Family Law situations?

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**25)** Do you have any suggestions about how to reduce the number of unrepresented women who have experienced abuse in their intimate relationships and are dealing with Family Law issues?

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**26)** From your unique place in the Family Law system, do you have any additional suggestions or comments about abused women who are unrepresented in Family Law proceedings?

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27) In your role within the family court System, what is the most difficult challenge for you in dealing with an abused woman?

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We really appreciate the time you have taken to complete this survey. Now that you have had a chance to think about the topics, have you had any other experiences with abused women and the family law process (i.e. abused women dealing with abusive ex-partners or with lawyers, judges, CAS workers, or mediators) that you would like to tell us? Please provide this information in the space below.

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If there is another question you wish we would have asked, please indicate it here and provide your answer.

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Any other comments:

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**Appendix IV**

**A WORKING WITH WOMAN ABUSE SURVIVORS  
UNREPRESENTED IN THE FAMILY LAW SYSTEM  
A SURVEY FOR LAWYERS**

**Woman abuse is: sexual, physical, emotional, verbal, financial and/or psychological**

**Please circle the appropriate response and fill in the blank where indicated.**

1) Please describe the type of legal work you do:

- Lawyer, sole practitioner.....1
- Lawyer in a firm.....2
- Duty counsel.....3
- FLIC staff.....4
- Other \_\_\_\_\_.....5

2) How long have you been doing this work?

- Less than 5 years.....1
- Between 5 and 10 years.....2
- More than 10 years.....3

3) How much of your work is with women who have experienced woman abuse?

- Less than 10 percent.....1
- Between 10 and 25 percent.....2
- Between 25 and 50 percent.....3
- Between 50 and 75 percent.....4
- More than 75 percent.....5
- Don't know if the woman is abused or not.....6

4) Do you also represent men who have been abusive in their intimate relationships?

- Yes.....1

- No.....2
- 5) Do you accept legal aid?  
 Yes.....1  
 No.....2
- 6) Do you assist women who have 2-hour advice certificates?  
 Yes.....1  
 No.....2
- 7) Do you offer any payment accommodations for women who require it?  
 Yes.....1  
 No.....2

8) If yes, please describe what types of accommodation you offer.

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9) On average, how much do you charge Legal Aid Ontario for a family law case involving woman abuse? \_\_\_\_\_

10) On average, how much money do you charge a non-Legal Aid Ontario client for a case involving woman abuse? \_\_\_\_\_

11) Do you ever open a file without a retainer?

- Yes.....1  
 No.....2

If yes, why? \_\_\_\_\_

12) How often do you have to close a file because of lack of payment?

- Less than 10 percent.....1  
 Between 10 and 25 percent.....2  
 Between 25 and 50 percent.....3  
 Between 50 and 75 percent.....4

More than 75 percent.....5

13) If woman abuse has taken place, do you consider that to be a relevant factor in family court proceedings?  
Yes.....1  
No.....2

14) What percentages of your family law cases involving woman abuse are completed in each of the following amounts of time?

Less than one year.....  
Between 1 and 2 years.....  
Between 2 and 4 years .....  
More than 4 years .....

15) Of your female clients who have experienced woman abuse, what are the most pressing family law issues for most of them? (**Select only two.**)

Custody and access.....1  
Restraining order.....2  
Child support.....3  
Spousal support.....4  
Exclusive possession of the matrimonial home.....5  
Property division.....6  
Emergency Motion.....7

16) Of your female clients who have experienced woman abuse, how many are also involved with criminal court proceedings?

Less than 25 percent.....1  
Between 25 and 50 percent.....2  
Between 50 and 75 percent.....3  
More than 75 percent.....4

17) Of your female clients who have experienced woman abuse, how many are also involved with the Children's Aid Society?

Less than 25 percent.....	1
Between 25 and 50 percent.....	2
Between 50 and 75 percent.....	3
More than 75 percent.....	4
More than 75 percent.....	5

**18) Do you ever suggest mediation to abused women?**

Yes.....	1
No.....	2

**19) If yes, do you refer abused women to mediation more often if they lack financial resources to retain legal representation throughout their case?**

Yes.....	1
No.....	2

**20) Do your clients ever come to appointments with you with an advocate?**

Yes.....	1
No.....	2

**21) What role does the advocate play?**

Support only.....	1
Assisting the woman to remember key questions and information.....	2
Active advocating on the woman's behalf.....	3
Other _____.....	4

**22) In your work, what is your estimate of the percentage of abused women who do NOT have a lawyer?**

Less than 10 percent.....	1
Between 10 and 25 percent.....	2
Between 25 and 50 percent.....	3
Between 50 and 75 percent.....	4



More than 75 percent.....5

Don't know .....6

**23) What are the most common reasons why abused women are unrepresented in family court proceedings?**

Did not qualify for Legal Aid but couldn't afford the fees of a lawyer.....1

Ran out of Legal Aid due to length and complexity of proceedings.....2

Ran out of money due to the length and complexity of the proceedings.....3

Abused woman felt her lawyer did not understand the issues.....4

Client couldn't find a lawyer who would accept Legal Aid.....5

Client couldn't find a lawyer who was knowledgeable about woman abuse.....6

Client didn't have time to find a lawyer given the emergency nature of her situation .....7

Other (Please describe.) \_\_\_\_\_.....8

**24) At the time when abused women don't have a lawyer, what are the greatest difficulties they face? (Circle any that apply)**

Paperwork.....1

Understanding the procedure.....2

Court/staff response.....3

Judiciary response.....4

Knowing what evidence about abuse to submit and how.....5

Knowing how to act in court.....6

Dealing with ex-partner and/or his lawyer.....7

Inadequate knowledge of the law.....8

Other (Please specify) \_\_\_\_\_.....9

**25) Do abused women who are unrepresented present any additional difficulties for other parts of the Family Law system (i.e. Judges, Duty Counsel, lawyers representing their partner, etc.)?**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**26) Do you have any suggestions about how to reduce the number of unrepresented women who have experienced abuse in their intimate relationships and are dealing with Family Law**

issues?

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27) In your role within the family court System, what is the most difficult challenge for you in dealing with an abused woman?

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28) If woman abuse has taken place, do you consider that to be a relevant factor in family court proceedings?

Yes.....1

No.....2

Don't know.....3

29) Which of the following incidents are commonly identified to you by abused women going through family court proceedings? **Please circle** each item as follows: **Never – 1, Occasionally – 2, Often -3**

Incidents	Never	Occasionally	Often
Difficulty finding a lawyer	1	2	3
Difficulty affording a lawyer	1	2	3
Not qualifying for Legal Aid	1	2	3
Dealing with pressure from the abusive partner to reconcile	1	2	3
Dealing with ongoing harassment and control by the abusive ex-partner	1	2	3
Fear for her own safety	1	2	3
Fear for her children's safety	1	2	3
Dealing with threats from the abusive partner that he will get custody of the children	1	2	3
Fear that she won't be believed in Court	1	2	3
Having a lawyer that says woman abuse is not a relevant factor		2	3
Dealing with an abusive ex-partner who creates issues with access visits (not showing up, arbitrarily changing visits without consultation)	1	2	3
Dealing with an abusive ex-partner who criticizes her to the children for "breaking up the marriage" without acknowledging her right to live free	1	2	3

from abuse			
Feeling overwhelmed by the complexity of family court proceedings	1	2	3
Feeling frustrated by numerous motions brought forward by the ex-partner	1	2	3
Feeling pressured to participate in mediation when it feels difficult to speak honestly in front of an abusive ex-partner	1	2	3
Feeling emotionally and financially drained by family court proceedings	1	2	3
Feeling disempowered by her lawyer	1	2	3
Dealing with an abusive ex-partner who refuses to respond to court documents	1	2	3
Not having money for herself and children to live on before financial issues are addressed in court	1	2	3
Dealing with intervention by Children's Aid Society because of her partner's abuse	1	2	3
Having her children removed because of her partner's abuse	1	2	3
Feeling pressured to accept Joint Custody agreements to look like a cooperative parent even if it does not feel like the best option for herself and the children	1	2	3
Not knowing how to get the abusive ex-spouse out of the house before it sells	1	2	3

Other: \_\_\_\_\_

**30) If you work with any abused women living in a rural community, which of the following difficulties do they experience in going through the Family Law process? (Please circle all that apply.)**

- Not enough support services and resources.....1
- Difficulty with the distance to travel to Court or support services.....2
- Transportation difficulties.....3
- Isolation.....4
- Lack of anonymity and/or lack of confidentiality.....5
- Difficulty with access to services (justice system, social services, etc.).....6

Sporadic access to police.....	7
Dealing with service providers who are relatives or friends.....	8
Economic conditions.....	9
Length of time involved to sell a farm delayed the process.....	10
Dealing with community attitudes about separating.....	11
Dealing with a more patriarchal attitude toward women.....	12
Fear about partner's access to guns.....	13
Other _____.....	14
None of the above.....	15

**31) If you work with any immigrant women who are abused,** which of the following difficulties, do they experience in going through the Family Law process? (**Please circle** all that apply.)

Language barriers.....	1
Difficulty finding an effective translator.....	2
Fear of harming immigration status.....	3
Separating from a husband who sponsored her into this country.....	4
Pressure from her community to stay in the marriage.....	5
Difficulty accessing support services that understand her particular issues.....	6
Economic conditions.....	7
Isolation.....	8
Difficulty accessing legal help.....	9
Dealing with discrimination and racism.....	10
Fear of the police; not trusting police.....	11
Fear of how police will treat her partner.....	12
Difficulty finding affordable housing.....	13
Fear that her partner will take her children out of the country.....	14
Transportation difficulties.....	15
Fear that her children will be taken away.....	16
Fear of being deported.....	17
Other _____.....	18

None of the above.....19

**32) If you work with any First Nations women who are abused, which of the following difficulties do they experience in going through the Family Law process? (Please circle all that apply.)**

- Not enough support services and resources.....1
- Difficulty with the distance to travel to Court or support services.....2
- Transportation difficulties.....3
- Isolation.....4
- Lack of anonymity and/or lack of confidentiality.....5
- Difficulty with access to services (justice system, social services, etc.).....6
- Lack of trust in the police.....7
- Dealing with service providers who are relatives or friends.....8
- Economic conditions.....9
- Services not understanding traditional ways of healing.....10
- Dealing with discrimination.....11
- Fear that chiefs and council members will support the abuser .....12
- Fear that she will have to move outside of her community to get away from abuse.....13
- Fear that she won't be believed or abuse won't be taken seriously.....14
- Dealing with community beliefs and expectations.....15
- Difficulty finding affordable housing.....16
- High tolerance for violence in the native community.....17
- Fear that her children will be taken away.....18
- Other \_\_\_\_\_.....19
- None of the above.....20

**33) If you work with any abused women with a physical or psychological disability, or who are Deaf/Hard of hearing, which of the following difficulties do they experience in going through the Family Law process? (Please circle all that apply.)**

- Difficulty leaving her abuser because he is her caregiver .....1
- Difficulty accessing support services.....2
- Transportation difficulties.....3
- Difficulties with physical accessibility to court, legal, and/or support services.....4

Dealing with discrimination.....5

Being treated as if she is a child or lacking in intelligence.....6

Feeling that she is supposed to be compliant and not challenge people.....7

Fear about managing on my own.....8

Difficulty finding accessible, affordable housing.....9

Isolation.....10

Difficulty accessing legal services.....11

Fear that she will be seen as an incompetent witness by police and the courts.....12

Difficulty with communicating; require assistance in communicating.....13

Fear that the court will view her as a lesser parent because of her disability.....14

Feeling less powerful than the abuser.....15

Other \_\_\_\_\_.....16

None of the above.....17

**34) Are there legislative changes you would like to see regarding abuse victims and the family court system?**

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**35) Do you have any suggestions about what would make you more effective in supporting abused women in Family Law situations?**

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**36) From your unique place in the Family Law system, do you have any additional suggestions or comments about abused women who are unrepresented in Family Law proceedings?**

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We really appreciate the time you have taken to complete this survey. Now that you have had a chance to think about the topics, have you had any other experiences with abused women and the family law process (i.e. abused women dealing with abusive ex-partners or with lawyers, judges, CAS workers, or mediators) that you would like to tell us? Please provide this information in the space below.

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If there is another question you wish we would have asked, please indicate it here and provide your answer.

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Any other comments:

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## Appendix V

### FOCUS GROUP QUESTIONS – ABUSED WOMEN

#### Introductory description of project and purpose of focus groups:

- identify that the focus is on women who are/were not represented in family court
- confidentiality commitment – by us and by all participants
- ground rules
- have women sign consent
- distribute questionnaire
- remind women they should only talk when they are comfortable, confirm roles of facilitators

#### 1. Please tell us briefly about your situation with respect to legal representation:

- Do you currently not have a lawyer in family court proceedings or was it in the past that you did not have a lawyer?
- What is the main reason you do/did not have a lawyer for family court proceedings?
- Did you ever have a lawyer or have you always been unrepresented?

#### 2. What is most difficult about not having a lawyer?

- judge's attitude?
- fear – of partner, of not knowing what to do, of judge, of other lawyer?
- partner/partner's lawyer?
- filling out paperwork correctly?
- understanding court process?
- speaking in court?
- being believed?
- speed of case?
- dealing with the abuser directly?
- treatment by court staff, other lawyer, etc.?
- other?

#### 3. Is there any benefit of not having a lawyer?

- people helping?
- judge feeling sorry for you?
- empowering to take care of situation yourself?
- financial?
- Other?

#### **This question is for one group of women only....**

- #### 4. Have you faced any particular barriers because of your personal situation (i.e. disability, Deafness, race, immigration status, living in a rural community, poverty)? Please describe.



**5. Tell us three things that were the most helpful to you during your family court case.**

- support from agencies/services?
- support of family/friends?
- duty counsel?
- court staff?
- judge?
- online legal information?
- Other?

**6. If you could change anything about how family court/legal aid/lawyers work, what would it be?**

**This question...time permitting only**

**7. What would you tell a friend in similar circumstances to yours, if she thinks she can handle her family law case without a lawyer?**

## **Appendix VI**

### **COMMUNITY FOCUS GROUP QUESTIONS**

#### **Introductory description of project and purpose of focus groups:**

- identify that the focus is on women who are/were not represented in family court
- confidentiality commitment – by us and by all participants
- ground rules
- distribute questionnaire
- confirm roles of facilitators

- 1. Please briefly introduce yourself and tell the group where you work. Is family law advocacy part of your work?**
- 2. Do you often see abused women who do not have legal representation? What are some of the key barriers to women accessing legal representation? What are some of the impacts of the lack of legal representation on the client (e.g. outcomes as well as emotional)?**
- 3. What advice do you give abused women with custody issues who do not have a lawyer?**
- 4. What attitudes have you and your clients encountered when you have done legal advocacy with abused women (from lawyers, judges, court staff, etc.)?**
- 5. What supports/resources/training materials would help your work with unrepresented abused women?**
- 6. What can be done (legislative change, increased legal aid, other) to reduce the numbers of unrepresented abused women?**
- 7. What is the worst/best story you have about an unrepresented abused woman?**

## **Appendix VII**

### ***FAMILY LAW SUPPORT WORKERS FOCUS GROUP QUESTIONS.***

#### **Introductory description of project and purpose of focus groups:**

- identify that the focus is on women who are/were not represented in family court
- confidentiality commitment – by us and by all participants
- ground rules
- distribute questionnaire
- confirm roles of facilitators

- 1. Introduce yourself and where you work. In what ways do you deal with abused women going through the Family Law process?**
- 2. Do you often see abused women who do not have legal representation? What are the key barriers to a woman accessing legal representation?**
- 3. What are some of the impacts of lack of legal representation on client (e.g. outcomes), court process, lawyers' workloads (judge's workload, etc.?)**
- 4. What advice would you give a battered woman with custody issues who cannot afford a lawyer?**
- 5. What can be done about unrepresented parties? (i.e. legislative change, increased legal aid, other ideas)**

## Appendix VIII

### *LAWYER'S FOCUS GROUP QUESTIONS*

#### **Introductory description of project and purpose of focus groups:**

- identify that the focus is on women who are/were not represented in family court
- confidentiality commitment – by us and by all participants
- ground rules
- distribute questionnaire
- confirm roles of facilitators

- 1. Introduce yourself to the group**
- 2. What do you think are the key barriers to abused women accessing legal representation?**
- 3. What are some of the impacts of lack of legal representation on client (e.g. outcomes), court process, lawyer's workload, judge's workload, etc.)?**
- 4. Can lack of representation ever work to a party's advantage?**
- 5. What are some appropriate roles for community advocates in supporting women for family court? (For example, is it helpful if the worker can accompany the abused woman, prepare drafts for affidavits to reduce the amount of time the lawyer has to spend on the file, etc. Is it helpful if the worker does systemic advocacy to improve legal aid coverage? What would that be?)**
- 6. What can be done about unrepresented parties? (i.e. legislative change, changes to legal aid, etc.)**