



YWCA
PETERBOROUGH
VICTORIA
& HALIBURTON

A TURNING POINT
FOR WOMEN

Family Court: Gateway to a Violence-Free Life?

A study of issues that women in domestic abuse situations encounter as they navigate the Peterborough Family Court

Research Report
October 2012

Produced by Karine Rogers, M.S.W., B.A.
for YWCA Peterborough, Victoria & Haliburton

This project has been funded by Status of Women Canada. The views and opinions expressed in this report do not necessarily reflect those of the Government of Canada.

Acknowledgments

Grateful acknowledgments are due to many people. First and foremost, thank you to the twelve woman-abuse survivors who came forward to speak about their experiences navigating the Family Court system in Peterborough. You were incredibly generous in sharing your stories. Thank you to all additional project interviewees who have contributed invaluable time, insight and suggestions to the project. Thank you to the two YWCA Court Support Workers, Debbie Radford and Billi Balment, who have been piloting the Court Support Program. Thank you to Rachelia Giardino and the Trent Centre for Community-Based Education for the community-based research contributions, Sonya Vallenga for facilitation of the Process Mapping meetings, Lisa Smith and the United Way for conducting the project evaluation. Thank you to Mary J. Breen for editing assistance, Shanaya Nelson for copy editing the bibliography, and YWCA staff for reviewing drafts. And finally, thank you to YWCA Executive Director Lynn Zimmer, and Director of Shelter and Outreach Barbara McEwen, as well as project advisors Gillian Balfour, Brian Gilkinson, and Kathy Peterson, for the countless hours of mentoring, guidance and feedback.

Acronyms used in this report

CAC– Child Advocacy Centre
CAS – Children’s Aid Society
CLRA – Children’s Law Reform Act
CFS – Catholic Family Services
DVDRC – Domestic Violence Death Review Committee
FCSW – Family Court Support Worker
FJC – Family Justice Centre
FLIC – Family Law Information Centre
LAO – Legal Aid Ontario
PDAN – Peterborough Domestic Abuse Network

© Young Women’s Christian Association of Peterborough, Victoria & Haliburton. If you would like to reproduce any portion of this report, please provide credit to YWCA Peterborough, Victoria & Haliburton.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	4
1. INTRODUCTION.....	6
2. METHODOLOGY.....	8
3. KEY ISSUES AND BARRIERS IN THE LEGAL SYSTEM.....	11
3.1 WOMEN’S NAVIGATION THROUGH THE COURTS.....	11
3.2 PETERBOROUGH FAMILY COURT	14
3.3 INTERRELATION OF THE PETERBOROUGH FAMILY AND CRIMINAL COURTS.....	20
4. SERVICE DELIVERY	23
4.1 KEY ISSUES AND BARRIERS	23
4.2 DOMESTIC ABUSE SERVICE DELIVERY HUB INITIATIVE IN PETERBOROUGH	25
5. RECOMMENDATIONS.....	27
5.1 RECOMMENDATIONS FOR THE YWCA.....	27
5.2 RECOMMENDED SERVICE IMPROVEMENTS WITHIN PETERBOROUGH.....	29
5.3 RECOMMENDATIONS FOR FAMILY LAW PROFESSIONALS IN PETERBOROUGH.....	30
5.4 RECOMMENDED CHANGES AT THE PROVINCIAL LEVEL	31
BIBLIOGRAPHY	33
APPENDIX A - INTERVIEW GUIDE	35
APPENDIX B - INFORMED CONSENT FORM	38
APPENDIX C – PETERBOROUGH FAMILY COURT APPLICATIONS BY REPRESENTATION STATUS, 2007-2011	40
APPENDIX D – PETERBOROUGH LAKEFIELD COMMUNITY POLICE SERVICE DOMESTIC INCIDENTS 2006-2011	41
APPENDIX E – SUMMARIES OF THREE DOMESTIC ABUSE HUB MODELS.....	42

EXECUTIVE SUMMARY

From September 2011 to January 2012, YWCA Peterborough, Victoria & Haliburton conducted research as part of a two-year Court Support Project funded by Status of Women Canada. This research report identifies the key issues, strengths and barriers identified for women navigating the Peterborough Family Court system who have experienced domestic abuse.

Twelve qualitative interviews were conducted with women who have been through Family Court in Peterborough regarding their domestic abuse. The findings and recommendations of this report are based as much as possible on the information gathered from these interviews. In addition, four group stakeholder meetings were held with representation from a total of thirteen domestic abuse service organizations and legal system professionals. Eleven individual interviews were conducted with service providers and legal system professionals, and ten telephone interviews were conducted with organizations in other jurisdictions.

Interviews with women regarding their experiences navigating the Peterborough Family Court system revealed the following common issues:

- Women found the process extremely stressful and difficult.
- Women faced significant negative consequences to their health, stress levels, emotional and mental well-being, jobs, and financial security.
- Some women did describe a sense of validation and recognition from the family court and related services regarding the abuse they endured.
- Some women reported facing continued abuse and harassment from their partners throughout the legal process.
- Women expressed many concerns about disclosing the abuse they faced to the family court.
- Many women thought their abusers manipulated the legal process.
- Some women reported that the outcome of their custody and access case did not sufficiently protect their and/or their children's safety.

Additional findings from stakeholders who work in the legal system or with women abuse survivors demonstrated:

- There is a lack of consensus regarding appropriate approaches to custody and access matters involving allegations of domestic abuse, particularly allegations that have not been deemed criminal. Abuse that does not meet the criminal standard is more difficult to substantiate, and less likely to be addressed by the family court. There are inconsistencies in the degree to which abuse allegations are taken into consideration in any given case. When abuse is not considered, the decisions regarding custody and access are often inappropriate to the situation.
- An increasing number of people are going through the Peterborough Family Court system without legal representation because they are unable to afford a lawyer and ineligible for legal aid. At the same time, family court rules and forms are complicated and cumbersome. Unrepresented women face frustration and confusion regarding their legal rights, their options, and the whole court process, and cases without legal representation are less likely to be presented to a judge as skillfully as is required.
- Women face multiple challenges when seeking emergency orders, including motions being denied on the basis of being ill-prepared, emergency orders being granted inconsistently, and women led to believe that their situation warrants an emergency order when it may not.
- Debates continue over the effects of the provincial mandatory charging policy for police, including reports of charges being laid against women in circumstances of patterned male dominant aggression.
- Service siloing and coordination challenges amongst abuse-related service agencies can sometimes lead to confusion and frustration for their clients.

The aim of the Court Support Project, and this research report, is to respond to the specific needs of women in domestic abuse situations navigating the Peterborough Family Court. Based on project findings, this report recommends several initiatives for the YWCA to pilot internally, most notably the recommendation to provide ongoing frontline family court support. The report also recommends eleven other improvement opportunities for stakeholders in the Peterborough region, including plans for a domestic abuse service delivery hub. The report then makes provincial-level recommendations towards addressing several key issues. The Court Support Project will be implementing some recommendations, evaluating the impact of these initiatives, and sharing lessons learned.

1. INTRODUCTION

Background

In March of 2011, YWCA Peterborough, Victoria & Haliburton received funding from Status of Women Canada to undertake a 24-month initiative identifying and responding to the specific needs of women in domestic abuse situations navigating the Peterborough Family Court system. Prior to applying for this grant, the YWCA was hearing feedback around the difficulties women in abusive situations were facing when going through the family court process, as well as ongoing safety concerns for some women when their abusive ex-partners had custody of, or access to, their children. This study was designed largely in response to these concerns.

Scope

The focus of the project is on women in domestic abuse situations who access the domestic Peterborough Family Court, excluding child protection proceedings. The project also looks at the interconnections between Peterborough Family and Criminal Courts in situations of domestic abuse. The report focuses on issues occurring at the procedural level. It does not address concerns that were raised specific to any particular circumstance or individual.

Framework

The YWCA understands the issue of domestic abuse through a feminist lens. In nearly all cases, perpetrators of domestic abuse are male and victims are female. The Domestic Violence Death Review Committee (DVDRC) reports, for example, that in domestic homicides committed between 2002 and 2006 in Ontario, 94% of victims were women and 94% of perpetrators were men, and all perpetrators of the cases reviewed by the DVDRC in 2010 were male. The Report from the Domestic Advisory Council for the Minister Responsible for Women's Issues (2009) highlights the importance of understanding the gendered nature of violence: "The conception of violence against women as gender-neutral suggests that violence results from ordinary, everyday social interactions in the family or other intimate relationships that have gone wrong and that women are just as responsible" (p.23). This report understands 'violence against women' by the following definition, developed by the United Nations, and used by the Domestic Violence Advisory Council:

The term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life (DV Advisory Council Report, 2009, p. 13).

Also central to this project is the belief that perspectives of women who have survived domestic abuse are vital to a comprehensive understanding of the issues. Qualitative interviews were conducted with women who have been through the Peterborough Family Court system regarding domestic abuse, and project findings and recommendations have been based as much as possible upon the information gathered from these interviews. This approach has been taken in order to shed light on some women's experiences of the legal system, and promote a shared understanding of the issues grounded in these experiences.

2. METHODOLOGY

In gathering information for this Research Report, the following five lines of research were used:

- Twelve qualitative interviews with women who have been through domestic family court in Peterborough for reasons relating to abuse
- Four process mapping/focus group sessions with legal system professionals and services from a total of thirteen organizations in the Peterborough area
- Eleven interviews with service providers and legal system professionals
- Ten telephone interviews with organizations in other jurisdictions
- Literature and document review

Research was conducted from September 2011 to January 2012. See Appendix A for the interview guide of women's experience of family court. Other interview guides are available upon request.

Interviews with women survivors

Twelve confidential qualitative interviews were conducted with women abuse survivors whose cases were not currently in front of the courts. They were asked about their experience of going through the Peterborough Family Court, and Criminal Court, if relevant.¹ Attempts were made to recruit a larger study sample. Recruitment for interviews was done by circulating an invitation through the following:

- YWCA website, shelter, outreach, and second-stage housing programs
- The 31 member agencies of the Peterborough Domestic Abuse Network (PDAN)
- PDAN Survivor Advisory Committee
- Women's Business Network of Peterborough
- Two Peterborough women's community e-mail list-serves
- Additional agencies: Curve Lake Health Centre, New Canadians' Centre, Community Race Relations of Peterborough
- Soroptimist International of Peterborough
- Sir Sandford Fleming College
- Trent University

See Appendix B for informed consent form.

¹ Interviews with women were developed in line with the 'Ethical Practice Principles and Guidelines for Research with Vulnerable Individuals and Families' by Alison Cunningham (2003). See Appendix B for the informed consent form signed by each woman before being interviewed.

Group stakeholder meetings

The four group stakeholder meetings had representation (at one or more of the meetings) from the following: Boost Child Abuse Prevention and Intervention, Crown Attorney's Office, Elizabeth Fry Society, John Howard Society, Legal Aid Ontario, Peterborough Aids Resource Network, Peterborough/Northumberland Victim Services & Support Link, Peterborough Lakefield Community Police Service Victim Services Unit, Peterborough Salvation Army, Probation and Parole, Women's Health Care Centre Domestic Violence Program, Victim/Witness Assistance Program, YWCA Peterborough, Victoria & Haliburton.

At the first two meetings, participants began identifying the steps a woman may take in navigating the Peterborough Family and Criminal Court systems, via a process mapping tool². In the third and fourth meetings, participants identified key issues and corresponding actions, and assessed each action item according to its potential feasibility and impact.

Interviews with service providers and legal-system professionals

Eleven interviews were conducted with staff from: Kawartha Family Court Assessment Service, Kawartha-Haliburton Children's Aid Society, New Canadian's Centre, Peterborough Lakefield Community Police Service, Victim/Witness Assistance Program, YWCA Peterborough, Victoria & Haliburton, three Family Law lawyers, a Criminal Defense Lawyer, and a Family Court Justice. The interviews were documented in point form, and sent back to interviewees for input and approval.

Interviews with other jurisdictions within Ontario

Ten telephone interviews were conducted with staff working on these issues in other jurisdictions: Brantford Domestic Violence Coordinating Committee, Boost Child Abuse Prevention and Intervention of Toronto, Durham Region's Intimate-relationship Violence Empowerment Network (DRIVEN), Family Law Information Centre of Cobourg, Jared's Place: Legal Advocacy and Resource Centre for Women (a program of Interval House of Hamilton), Luke's Place Support & Resource Centre for Women & Children of Durham Region, Northumberland Services for Women, Safe Centre of Peel, Yellow Brick House in York Region, and a Family Law lawyer in Kawartha Lakes region. The interviews were documented in point form, and sent back to interviewees for input and approval.

Participant recruitment for the group meetings and individual interviews was done by circulating an invitation to the members of the Peterborough Domestic Abuse Network (PDAN) and by soliciting suggestions for contacts from current participants.

² Process mapping is a tool designed to create a picture of an existing process which sets the stage for identifying future change at the system level. Two process mapping meetings were held during which it became evident that there is great complexity of interrelated services and there are innumerable potential entry points to the court systems and domestic abuse services. The system is confusing and daunting for people in crisis. A decision was made to use the remaining two meetings as facilitated focus group discussions identifying key issues and corresponding possible solutions.

Literature and documents review

A number of documents were reviewed focusing on information in the published literature as well as documents provided by project participants.

The Court Support Project was also supported by two pieces of research conducted by Trent University student Rachelia Giardino. A literature review examines barriers to the legal system and related services in situations of domestic abuse, focusing on how Aboriginal and immigrant women may be differentially affected by various systemic, social, cultural, and economic barriers. A second research paper explores best practices and challenges for collaboration and partnerships in domestic abuse service delivery hub settings. This research was conducted through the Trent Centre for Community-Based Education.

3. KEY ISSUES AND BARRIERS IN THE LEGAL SYSTEM

The next chapter presents the following sections:

- 3.1 Key findings specific to women survivors' experiences of navigating the courts in Peterborough
- 3.2 Findings relating to the Peterborough Family Court
- 3.3 Findings on the interrelation of the Peterborough Family and Criminal Courts
- 3.4 Findings on court-related service delivery

3.1 Women's navigation through the courts

General experiences of court process

The women interviewed generally described the process of going through the court system, whether Family or Criminal, to be extremely stressful and difficult, with significant negative consequences on their health, stress levels, emotional and mental well-being, jobs, and financial security.

Court emotionally devastates you.

To deal with court on top of the emotional stuff is too much.

There's no guarantee that if you drag it through court the abuse will end.

It's bad enough your marriage has ended. It's too much to handle.

I'm surprised I had the strength to go on. How much more of this can you take?

It took me five years to get back on my feet.

Some women also expressed a sense of validation and recognition from being listened to, believed, and validated while engaging with the legal system.

They helped me understand that my husband was actually being abusive.

The courts took his abduction threats seriously.

They explained how I could leave with my son. My ex had convinced me I would be arrested for kidnapping if I left with my son.

Length of court

Women described the stress of going to family court multiple times, often over many years, and the stress of not having a final agreement in place.

I wish I had kept count of the number of times I had to keep going back to court.

You don't have a leg to stand on until there's an agreement.

It's never done.

Safety concerns

Some women reported having safety concerns throughout the legal process. Several women expressed feeling significant fear of going to court knowing their abuser would be there. One woman had moved to another city for safety, but had to keep returning to Peterborough to attend court dates. Most women reported feeling afraid having to wait near their abuser in the one single waiting room.

I was scared out of my mind. I was terrified because he was there.

The panic I was feeling just being in the same room as him.

I had no other place I could sit.

Concerns around disclosing the abuse

Some women were reluctant to disclose the abuse, both to the family court and more broadly, for the following reasons:

- Non-disclosure was a means of coping, staying safe and keeping their abuser calm
- Fear that their abuser would make false accusations in retaliation
- Fear of disclosure leading to CAS involvement or apprehension
- Having been legally advised that the abuse history would not be relevant to their case
- Self-blame

I knew if I said anything he would make up stories because he'd made so many threats.

I was trying so hard to make things nice for everyone. I felt bad because I left him.

Manipulation of the legal process/legal bullying

Most women reported occasions when their abusers attempted and/or succeeded at manipulating the legal process by:

- successfully pressuring her into withdrawing her statement against him at criminal court
- continuing to actively instill a sense of fear in her, while modifying his behavior to avoid being charged criminally
- mouthing threats in the courtroom
- dragging out the court process by not filing papers, repeatedly serving her papers and later withdrawing, not showing up to court, making false allegations
- under-reporting and hiding income. Almost all of the women interviewed stated that their partners significantly decreased their levels of reported income after separation.

Women reported observing that the abusive partners suffered few or no repercussions for their behaviours, even when court-related professionals recognized why these tactics were being used.

I don't understand why the system let him off over and over again.

They kept adjourning because he wasn't doing the paperwork.

The system allowed him to drag it out for 2 years without entering a plea.

What's the number of times someone can serve a bogus motion before it's considered harassment?

He plays it tactically, how far he can push the boundaries so there's no repercussion. The police never have quite enough to charge him with criminal harassment.

3.2 Peterborough Family Court

“The reality for many women with abusive partners is that the abuse simply shifts from the home to the family court. The present family court process is an open invitation to a persistent abuser who wishes to continue to control, harass and intimidate his partner post-separation” (Cross & Tonlin, 2010, p.4).

When a woman decides to leave an abusive relationship, she often has to go to family court for any or all of the following: a divorce, division of assets, child support, custody and access of her children, a restraining order. Key family court issues raised revolved around custody and access, emergency motions, and access to legal representation and information. These are explored below.

3.2.1 Custody and access

Family law dictates that cases be decided according to the best interests of the children, and emphasizes cooperative solutions between separating parents. Underlying the Divorce Act is the assumption that children are better served by ensuring a relationship with both parents, and the Children’s Law Reform Act (CLRA) assumes that it is generally in a child’s best interests for both parents to be entitled to custody. Section 24(4) of the CLRA states that family violence shall be taken into consideration. However, due to the complexity of the dynamics of abuse, there is no one-size-fits-all prescribed solution to custody in cases involving domestic abuse.

The 2005 Domestic Violence Death Review Committee Annual Report to the Chief Coroner argued that family law proceedings must fully recognize domestic abuse issues when determining custody and access:

Although domestic violence has been well recognized in the criminal justice system for almost a quarter century in terms of legislation, policy, support/counseling programs, and enhanced collaboration with other systems, the practice of family law has not witnessed the same developments. The focus on conflict resolution, parent education programs, and pressure for parents to put the past behind them for the sake of the children has not served the unique need of abuse victims and their children. Abuse victims face many challenges in seeking safety for themselves and their children after separation. They may be supported in developing a safety plan in the criminal courts, but the family court may undermine these efforts by promoting access to a perpetrator of domestic violence. The history of domestic violence may not be recognized as a significant factor compared to child abuse since the former is seen as an “adult” issue. **The Committee’s reviews indicate there have been a number of tragedies associated with the lack of recognition of domestic violence as a critical factor in determining child custody and access arrangements** [emphasis added] (p. 38).

Jaffe, Crooks & Bala (2009) echo this position, arguing that although most family law cases serve the best interests of children through cooperative solutions, child custody disputes involving allegations of domestic abuse demand a differentiated response from the family courts. They argue this can be achieved by developing parenting plans that give priority to protecting victims and their children rather than collaborative settlements:

Previously domestic violence was seen as an adult issue not relevant to the best interests of children. Many researchers and professional groups have challenged the common belief that an individual could be an abusive spouse but a good parent, and encouraged legislative reform to recognize domestic violence as a critical factor to consider in [custody] cases (Jaffe et al., 2009, p.171).

Jaffe et al. further argue that abuse cases need to be clearly differentiated from high conflict cases without a history/pattern of abuse, and that safety and security need to become the primary lens through which abuse cases are viewed. While the wide range of abusive patterns and situations demands differentiated legal responses, **joint custody is generally deemed unsuitable in situations of abuse.** The findings from the literature demonstrate a need within the family courts toward better protection of victims and children, and this protection may need to move away from traditional cooperative solutions.

Views of court-related professionals³

It is clear from the interviews that decisions regarding custody and access in cases of abuse are complex, and court-related professionals have differing views on these matters. In particular, many appear to assume relatively equal power between the two parties, while others do not. The following highlights some of the issues raised:

- Abuse that meets the criminal standard is addressed in criminal court, and a criminal conviction will likely be taken into consideration in the determination of custody and access.
- Abusive behaviour that falls short of a crime under the Criminal Code, including many acts of intimidation, abuse of power and control, is generally more difficult to substantiate and less likely to be addressed by the family court.
- Some lawyers observe inconsistencies in the degree to which abuse is taken into consideration in any given case, noting the idiosyncratic nature of family law. The outcome of similar cases may vary significantly from one judge to another.
- Some interviewees report that lawyers may not consistently include details of the history of abuse, either because they themselves deem the abuse to be irrelevant or because they assume it will not be considered relevant by the judge. Further, they argue that when abuse is not considered, the custody and access arrangements can be inappropriate to the situation.

³ ‘Court-related professionals’ is being used as an umbrella term, referring to contributions made by any service-provider and/or legal-system professional participants in the project.

- While the courts identify witnessing intimate partner violence as a form of child abuse, several stakeholders describe the courts' underlying belief that abusive partners may still be capable parents post-separation. Courts can be reticent to award sole custody to the abused parent as a penalty against the abusive parent.
- Several stakeholders emphasized the importance of distinguishing between an abusive history and risk factors or an ongoing pattern of abuse. If domestic abuse is decidedly an ongoing concern, safety concerns around access will likely be solved by supervised access to enable access with protection. One interviewee pointed out that supervised access is not generally considered by the courts to be a good long-term remedy, for its artificiality and the limited space in supervised access facilities.
- The relevance of custody as an issue was contested by several court-related professionals who noted that legal custody is only one factor, and may not be the greatest determinant, in ensuring a child's well-being. In determining the stability and well-being of children, the courts may emphasize determining details of a parenting plan, outlining details such as the time children will spend with each parent, plans for their education and religion, how parents will make day-to-day and major decisions, etc.
- Some court-related professionals believe that the presence of abuse often fails to play a large enough role in custody and access determinations at the Peterborough Family Court. Some believe that abusers are being granted too much unsupervised access to their children and access exchanges can be opportunities for abusers to continue their abuse. These concerns were echoed in interviews with other jurisdictions.
- One lawyer described the lack of evidence-sharing from the Children's Aid (CAS) to help substantiate abuse allegations in custody and access claims for women with current or former CAS investigations.
- There is a lack of feedback mechanisms or performance appraisals for justices. This seems to stem from concerns around threatening judicial independence. As a result, it can be difficult for judges to see the longer-term outcomes of their rulings.

Women's voices on custody and access

Of the ten women with custody and access claims, six were granted sole custody, three were granted joint custody, and one woman lost custody to her ex-partner. Of those women with sole custody, three of their ex-partners were denied access, one was granted supervised access, and two received unsupervised access. Seven of the ten women were satisfied with the outcome of their custody and access matter.

I was believed by the system. They said they didn't know why he hadn't been charged.

My kid is thriving.

Three women expressed a sense that the abuse they faced was not sufficiently taken into consideration in determining the matter, and that the outcome did not sufficiently protect their and/or their children's safety. They reported facing continued long-term abuse from their ex-partners, including being intimidated, threatened and/or harassed during court-ordered access visits and exchanges. Two women reported considering or deciding to withhold visitation out of fear for their children's safety.

The abuse that was sustained, that didn't have any bearing on my case. They gave him the benefit of the doubt.

In the end [court] didn't help me come out of the situation. I'm still living in it.

I'm harassed every week on pickups.

I don't know what to do when he threatens not to bring the kids home.

One woman's lawyer advised to go back to court try and have her abuser's access conditions restricted, but she felt it would be prohibitively expensive, with an uncertain outcome. Finalizing her first custody and access agreement totaled \$35,000 in legal fees over a two year period.

What are your chances? Do you open that can of worms or not?

3.2.2 Emergency motions

Domestic abuse does not necessarily end after separation, and in some cases the violence escalates when a woman has defied her abuser⁴. Some women who face serious imminent safety concerns for themselves and their children seek immediate legal protection by applying for an emergency motion. Courts are generally vigilant about protecting the constitutional right of individuals to present their side prior to a ruling, but emergency orders are granted without providing notice to the other party in exceptional circumstances of safety or flight concern. Court-related professionals described the following issues:

- There is confusion on the part of professionals and clients about where, when, and how to obtain emergency orders. Some lawyers think there is a risk when service providers who are not lawyers give legal advice on whether or not a woman's situation warrants an emergency order. They argue that such advice may set up false expectations that an emergency motion is both warranted and will be successfully granted.
- Often materials submitted for emergency orders are weak and may be denied on the basis of lack of information or evidence to substantiate the allegations. A large number are prepared by unrepresented litigants.

⁴ Reports from the Domestic Violence Death Review Committee indicate that separation or imminent separation is often a primary risk factor in cases where women are killed by their former partners.

- A denied motion can result in women in high-risk situations being left without safety measures in place from the court. It also has the potential to negatively impact a woman's future credibility with the court.
- Emergency motions are granted inconsistently, depending on the justice.

3.2.3 Access to legal representation, information and support

Court-related professionals described the following issues pertaining to accessing legal representation, information, and support through the family court process:

- An ever-increasing number of people are going through family court without legal representation⁵. Current financial eligibility for Legal Aid Ontario (LAO) is below the low-income cut off so a large number of people do not qualify for legal aid, but cannot afford a lawyer. At the same time, the family court procedures and forms are increasingly complicated and cumbersome, making the process more difficult for those without representation to navigate.
- The LAO Family Violence Authorization Program, which provides a 2-hour certificate for free legal advice on family law and immigration matters, is being underutilized in this district. Women in abusive situations are better served by using one of these certificates which allow them legal advice specific to their situation, than by accessing Advice Counsel at the FLIC office, which offers general advice.
- When a woman accesses a 2-hour certificate, she may have a very hard time getting an appointment with a lawyer. Peterborough is an under-serviced area for family law. Domestic abuse cases are generally more difficult and time consuming, so there is a smaller pool of lawyers willing to represent these cases.
- When English is not their first language, women often have to travel to the Toronto area for legal advice.

Of the twelve women survivors of abuse interviewed, five were eligible for legal aid, three secured private counsel for the duration of their cases, and four were unrepresented for at least part of the family court process. Women reported the following circumstances:

- Being ineligible for legal aid, but not being able to afford a lawyer;
- Starting the process of hiring a lawyer, and then running out of money;
- Having a hard time obtaining a family law lawyer willing to see them on a legal aid certificate.

⁵From 2007 to 2011, an overall average of 45% of applicants to the Peterborough Family Court were represented by retained counsel at the time of filing their application. See Appendix C for the number of applications filed to the Peterborough Family Court annually by representation status from 2007 to 2011, according to the Ministry of the Attorney General.

Women without legal representation

Women who went through Peterborough Family Court without a lawyer described significant confusion, frustration and lack of understanding of the legal process. They reported difficulty filling out the forms properly, and receiving conflicting information.

I had no clue. No one explained anything to me.

A woman gave me a huge stack of sheets and said be as detailed as possible. There were a lot of legal words I didn't understand. I had to re-do the sheets.

Filling out paperwork would've been a lot easier if I'd had someone to help me go through it.

I would go to the clerk's office and be told one thing, then later be told another thing by someone else.

Unrepresented women reported feeling intimidated and looked down upon by legal professionals for being unrepresented, all the while feeling lost and unable to find the information they needed.

I didn't know my rights without a lawyer.

I didn't know about the option of a restraining order. I didn't know to ask anyone.

I had to ask all the questions about my situation assertively. A lot of women don't have it in them to ask where to go, who to speak to next.

Because I wasn't represented I was a pain in the ass.

I didn't know important information until after the fact.

Duty Counsel would forget to tell me my matter had been adjourned.

Women with legal representation

Even represented women often felt they lacked information regarding the legal process or their options. Some women did not know their rights nor did they understand the legal jargon. They needed to be assertive to find out information about their case. Women reported some lawyers to be extremely helpful, respectful, and supportive, and some lawyers to be more sensitive to domestic abuse issues than others. Two women believed there were undeclared conflicts of interest between their lawyer and another person involved in their case.

Lawyers aren't giving the woman enough information about what's going on, what's going to happen.

They weren't really telling me anything except what I had to do.

I bet my lawyer put in way more hours than legal aid gave her.

3.2.4 Other family court issues

A number of other observations and issues were raised by court-related professionals:

- Women often find themselves pressured or forced by their partners to attend mediation.
- Family law lawyers sometimes suspect abuse to be an ongoing issue for their clients post-separation, but note a tendency for women to deny or minimize the abuse.
- Instances of unfounded abuse allegations, though few, create a sense of skepticism toward abuse allegations.
- Some women do not seek out any support services due to fear or distrust of the system.

Several women survivors reported facing difficult choices during this time, and having to pick between staying with her abuser or leaving and losing her home, financial stability, etc., or feeling blamed for getting back together with her abuser. Separation from a partner may be required by the CAS, and not the woman's choosing.

I was afraid of him and afraid of being alone with the kids.

CAS told me to take my kids elsewhere or go to a shelter. I still had contact with him. When they found out I lost my children.

It's hard to stay away when you're in love with him.

3.3 Interrelation of the Peterborough Family and Criminal Courts

Women in abusive situations may also find themselves involved with criminal court, either as a victim/witness or as a person charged. Though the courts formally operate as separate entities, in some circumstances court orders can interrelate.

Court-related professionals raised the following issues regarding the interrelation of the Peterborough Family and Criminal Courts:

- Efforts are being made to address the issue of orders from the two courts potentially contradicting each other. Criminal orders (e.g. bail conditions stipulating that an accused person cannot be in contact with their family) attempt to take the family court into consideration. When circumstances warrant, criminal orders will state that an accused person must receive a family court order issued after the current date, should they be seeking access to their children.
- Service providers report that some women misunderstand court orders; for instance, sometimes women mistakenly believe that a criminal order obligates them to grant their recently-charged abuser access to the children.

- Women seeking No Contact Orders (e.g. a restraining order) are sometimes bounced back and forth between police, family and criminal courts due to a lack of consensus regarding which court ought to be providing this relief.
- There is no automatic mechanism for sharing relevant information between the two courts. For example, there is no notification to family court of a criminal charge, yet women may assume that information has been shared. When information is in fact shared between the courts, other problems can result. For instance, information from a woman's family court affidavit might be used to challenge her credibility if its contents do not fully match her sworn statement to criminal court.
- When the two courts are in session simultaneously, bottlenecks can occur. For instance, child protection matters or family court assessments can be held up while waiting for a determination in criminal court.

Additional findings - criminal court

Since 1994, when Ontario women make reports to police regarding violence from an abusive partner, the police are mandated to lay criminal charges in all cases where reasonable and probable grounds exist. Issues regarding this mandatory charging policy and its effects are often debated in the domestic violence field, and while the policy is not inherently connected to the family court, it was routinely raised as an issue during this research. Court-related professionals note the following:

- In some situations, mandatory charging successfully works in the interests of a woman whose partner is charged, and in others it does not.
- Peterborough-Lakefield Police Officers receive regular training on domestic violence to enhance their understanding of abuse dynamics and the importance of discerning the context, history, and pattern of a reported incident before laying charges.
- Officers can only respond to the information they have, and it is often challenging for police to gather enough information to make a decision at the initial stage. This can lead them to lay charges without enough information.
- Some women feel significant regret, shame, stigma and fear when their partners are criminally charged.

In most heterosexual domestic violence cases, the man is charged. There are also situations where only the woman is charged, or where both the man and woman are charged (see Appendix D for rates of domestic incidents and charging rates in the Peterborough Lakefield Community Police Service from 2006-2011). Some court-related professionals report having seen a small number of instances they described as 'shocking' where women were sole or dually charged despite a pattern of male dominant aggression. While recognizing that some circumstances have warranted charges being laid against

women, interviewees described a number of consequences they have observed in cases where abused women were charged:

- The process of being charged and going through court re-victimizes the woman.
- The woman is unable to obtain a surety to get out of jail, due to social isolation.⁶
- Assault charges against a woman tend to be minor offenses, making her ineligible for legal aid.
- Women who plead guilty because they have not received legal representation in time end up with a criminal record.
- After being charged once, women are often reluctant to call 911 when being assaulted at a later time.
- Women who have reason to make a complaint against the police fear it will disturb the resolution process.
- Criminal charges are a potential barrier for those who want to go to a women's shelter.

⁶ Social isolation is a common dynamic in relationships involving domestic abuse.

4. SERVICE DELIVERY

4.1 Key issues and barriers

There are a number of domestic abuse-related services in Peterborough. Court-related professionals described the following issues with the available services:

- The number of potential services can be overwhelming.
- Understanding agency names, acronyms, and the services they provide can be confusing for both women and other service providers⁷.
- Waiting lists can be weeks long, and the longer a woman waits, the more likely she may go back to her abusive partner.
- Service silos result in some service providers not understanding what other services could provide to their clients. It can also lead to different agencies covering the same information with a shared client.
- Sometimes services do not agree with each other about the appropriate courses of action.
- Access barriers to current services include child care, transportation, parking, language. There are instances where an abusive partner acts as a language interpreter, and hard of hearing/Deaf clients do not have access to appropriate panic alarm technology.
- Some service providers report women not accessing services because they are afraid of the potential negative repercussions of getting linked into the system. One lawyer reported very serious abuse cases linked to drug issues where women have not sought out services due to concerns about child welfare involvement.

This project identified service gaps for:

- women in abusive situations going through the family court process
- high-risk victim/witnesses at the post-disposition stage of criminal court
- women in situations of dual charging when no dominant aggressor is clearly identified, and where a woman may not be eligible to access or be referred to victim services
- women not fluent in English who seek legal representation or advice in their mother tongue
- male victims of domestic abuse seeking shelter

⁷ The 2007 Domestic Violence Response Protocol for the Peterborough Region was created to help increase understanding of each others' roles. The protocol provides an overview and description of twelve services and is available at http://www.pdan.ca/pdf/DVRP_final07.pdf.

Each woman interviewed for this study had at some point accessed services directly and/or indirectly related to domestic abuse. Some women were mandated by the CAS to access services, and others accessed them of their own accord. Most women reported deriving great benefit from the services they received. Women described the following:

I wasn't informed well enough about where to go for help. I didn't have a good sense of what's available. I'd call and didn't always get answers.

They got back to me one to two weeks later and by that time I was so frustrated about waiting, and knowing he was still out there. I was fed up so I didn't talk with her.

The longer it took me to get into places, the less I wanted to talk about it.

People told me to go places but I didn't want to, I just wanted to get the court going and get him out of my life.

Support helps you feel calmer, more relaxed, can provide guidance.

One issue that emerged during interviews with women is the number of steps that can be involved in getting connected to the appropriate supports. Below are steps that one woman took in starting the court process:

1. She disclosed her situation of abuse to a health professional, who referred her to the police station for a restraining order.
2. She went to the police station. She had no proof of her allegation. No charges were laid, and she was referred to the Family Court.
3. She went to the Family Courthouse and spoke with Advice Counsel, who advised her to apply for legal aid and obtain a lawyer.
4. She went to the legal aid office and applied for legal aid. She had to go back to the legal aid office a second time to provide proof of financial eligibility.
5. Legal aid provided a list of legal aid lawyers. She called through the entire list, and no one was immediately available. It took several days before she obtained a family lawyer.
6. Her lawyer then helped her prepare and present her case.

4.2 Domestic abuse service delivery hub initiative in Peterborough

During the research phase of this project, staff members from the Domestic Violence/Sexual Assault Response Program of the Women's Health Care Centre (WHCC) were exploring with community service providers the possibility of starting a service-delivery hub for adult survivors of domestic abuse. The WHCC hosted two well-attended meetings, and at the second meeting held in January 2012, those present decided to move forward with trying to establish a hub in Peterborough. The feedback and engagement in that process has been resoundingly positive.

The hub model of service delivery involves several abuse-related organizations, or staff from these, making some of their services available at a single site. Clients often want to access multiple services, and the hub model provides coordinated access to all participating services in an area. The model originates from the United States, with the San Diego Family Justice Center, the first such initiative, having been launched in 2002. There are now over 84 operational 'Family Justice Centre'-style hubs in the United States and internationally.⁸ There are also nearly 700 'Child Advocacy Center'-style hubs in the United States alone serving children of domestic abuse. The hub service delivery model is gaining momentum and credibility as an effective and client-friendly design.

There are three hubs serving adult domestic abuse survivors in Canada, all of which are in Ontario:

1. The Family Violence Project of Waterloo Region
2. Durham Region's Intimate-relationship Violence Empowerment Network (DRIVEN)
3. Safe Centre of Peel: Collaborative Assistance for Victims of Abuse and Violence

See Appendix E for interview summaries regarding these initiatives.

Group stakeholder discussion

In the final group stakeholder meeting, participants discussed the prospect of developing a co-located service-delivery hub in Peterborough. In general participants liked the idea of being able to send their clients to a hub. Participants brainstormed the following potential strengths:

- A service-delivery hub could address access barriers by reducing clients' need for transportation, providing early access to services, increasing the chances of clients following through on referrals having met with a staff person from that agency, and decreasing clients giving up in frustration or falling through the cracks.

⁸ For a complete list, see <http://familyjusticecenter.com/open-family-justice-centers-list.html>.

- There was a sense that co-locating services would create a more easily navigable system and reduce confusion as clients would know that they could go to one single site to get information and direct help.
- Participants thought a hub could address some of the issues that currently exist around service siloing and create more seamless service delivery. This could happen by increasing client coordination, improving referrals between services, reducing service overlap, and increasing service provider knowledge of each others' roles as a result of spending time together onsite.
- Services housed in the hub could more easily arrange group meetings for clients in high-risk situations.
- The model could help save frontline staff time by reducing phone tag, for instance.

Concerns about the viability of starting a hub were also discussed. The following issues were raised as potential barriers:

- Securing adequate funding
- Finding an appropriate space in a good location
- The potential that a hub of this kind would provide less anonymity for clients
- The amount of work needed to get a hub off the ground
- The difficulty of freeing up staff to move offsite one day per week.

5. RECOMMENDATIONS

Findings from this study have assisted in the development of recommendations in several areas. Firstly, information gathered from this study has helped enhance YWCA services for women. There are also several areas where the YWCA, working collaboratively with other interested court-related professionals, can consider potential improvements to address a number of the challenges and barriers identified in this report. In addition, during this research some initiatives were identified that fall beyond the scope of the Court Support Project to pilot. The following chapter lays out recommendations according to the following:

- 5.1 Internal recommendations for the YWCA Court Support Project
- 5.2 Recommended service improvements within Peterborough
- 5.3 Recommendations for family law professionals in Peterborough
- 5.4 Recommended changes at the provincial level

5.1 Recommendations for the YWCA

Frontline family court support

Recommendation 1: That the YWCA provide ongoing free frontline court support to women in abusive situations going through the Peterborough Family Court.

Several court-related professionals identified the lack of service support for women going through family court. Chapter 3 identified a number of difficulties faced by these women, including low rates of legal representation, not understanding the process or knowing their legal rights, confusion about where to get information, and negative consequences to their health and well-being. All of these occur on top of significant safety concerns. By enhancing its frontline support to women in abusive situations going through family court, the YWCA hopes that many of these negative impacts will be mitigated.

The YWCA has long-provided court support, primarily in the form of accompaniment to court and related appointments. This support was given on an as-needed basis to women already accessing the YWCA shelter and outreach services. With funding from the Status of Women Canada, as well as from the Ontario Ministry of the Attorney General, the YWCA has officially launched a Court Support Program, where two YWCA staff are dedicated (on a part-time basis) to providing support to women in abusive situations who are going through the Peterborough Family Court. The program will continue to offer criminal support to existing YWCA clients in order to provide them continuity of service. The Court Support Workers assist women with the following: safety planning; understanding the court

process; filling out court forms; applying for legal aid; finding a lawyer; preparing for legal appointments; recording the history of abuse; court accompaniment, and information and referrals to other services. The YWCA has also established measurements to evaluate program outcomes.

In addition, the YWCA will explore all avenues to secure continued resources to provide clients with ongoing assistance beyond the end of the time-limited funding for dedicated Court Support Workers.

Life skills development

Recommendation 2: That the YWCA provide additional life skills programming to assist women's overall levels of support and skills development during the post-separation period.

Most women tend to begin the family court process during the immediate post-separation period. A number of women survivors interviewed in the project talked about the overall stress and difficulty of the period of change after leaving an abusive relationship. Because this is such a difficult time, several women suggested that agencies provide additional emotional supports at this time, such as support groups. One interviewee described having access to skills development as integral to women re-building their self-esteem. The YWCA will establish measurements to evaluate life skills program outcomes.

Planning for the development of a service-delivery hub

Recommendation 3: The YWCA continue working with interested stakeholders to pilot a domestic abuse service-delivery hub, and dedicate some of the Court Support Project Manager's time toward this initiative.

Chapter 4 presented some of the existing challenges of providing coordinated service delivery in Peterborough, as well as a high level of support and enthusiasm among relevant service providers for moving forward with developing a service-delivery hub. Considerable effort will be required to plan and implement this hub, including determining which agencies will provide service, securing a location, developing protocols, and accessing funds for renovation/capital development and ongoing operations.

5.2 Recommended service improvements within Peterborough

1. Encourage women going through the Family Court to disclose abuse to legal counsel so that all pertinent information is available during Family Court proceedings.
2. Continue routine quarterly meetings for all relevant frontline court support staff to discuss referrals and coordination processes, to provide cross-training opportunities, and to streamline services.
3. Arrange training and training materials for service providers working with abuse survivors regarding which circumstances warrant emergency motions in order to avoid setting up false expectations of eligibility.
4. Provide additional support to unrepresented women who are preparing applications for emergency motions so these women will not be denied on the basis of having ill-prepared materials.
5. Provide training to relevant parties regarding the conditions for issuing Restraining Orders, to reduce women from being sent back and forth between family and criminal court.
6. Examine courthouse safety for women in abusive situations, including options for alternative waiting areas.
7. Develop protocols to facilitate CAS sharing information to assist in substantiating abuse allegations in custody and access cases.
8. Continue to collaboratively plan for the development of a domestic abuse service-delivery hub.

5.3 Recommendations for family law professionals in Peterborough

1. Thoroughly investigate all custody cases involving allegations of domestic abuse, including forms of abuse that do not meet the criminal standard in order to be able to make the most appropriate determination given the complexity and variability of abuse. Consider the impact of ongoing abuse between parents on the best interests of the child.
2. Use a differentiated approach to custody cases involving domestic abuse, in line with guiding principles and intervention frameworks set out by the Centre for Research and Education on Violence Against Women and Children. Give priority to the protection of victims and their children over collaborative settlements, and include domestic abuse as a relevant factor in determining any post-separation parenting arrangement (Jaffe et al., 2009; Jaffe et al., 2008).
3. Advocate within your professional organizations for enhanced training and educational opportunities regarding the relevance of domestic abuse in custody disputes, to assist, for example:
 - a. In being able to properly assess the domestic abuse, given its complexity and variability.⁹
 - b. In better understanding the impacts of domestic abuse on children as a significant factor for consideration in the development of custody and access arrangements.¹⁰
4. Identify processes and tools to recognize and stop abusive manipulation of the legal system, and advocate for their use throughout the system.

⁹ See the PPP Screening tool outlined in Jaffe et al., 2008, which assesses abuse according to the potency, pattern, and primary perpetrator of violence.

¹⁰ See Crooks et al., 2010

5.4 Recommended changes at the provincial level

A number of the initiatives recommended over the course of the project might effectively address the issues raised in the research, but they lie beyond the reach of the YWCA and project stakeholders since they require changes at the provincial level. The YWCA makes the following recommendations to the Province of Ontario:

Family court

1. Provide ongoing (annualized) funding for the new Family Court Support Worker program of the Ministry of the Attorney General. Expand staffing hours across the province to better meet demand for service.
2. Increase access to civil legal aid by increasing overall funding, changing the income-eligibility criteria to increase the number of people who qualify, and increasing the number of hours provided on legal aid certificates to reflect the complexity of abuse cases.
3. Make more resources available to unrepresented women to assist them navigating the family courts. For example, increase the level of staffing at the Family Law Information Centre & Duty Counsel services, and remove the income-eligibility barrier.
4. Simplify family court forms and procedures to assist people without legal representation.
5. Increase domestic abuse training opportunities for all relevant family court legal professionals.¹¹
6. Ensure any future space design for Peterborough Family Court facilities appropriately addresses safety and intimidation concerns.
7. Facilitate legal access to provincial and federal government records and files pertaining to past violent conduct.
8. Provide a fast-track process for women to re-open custody and access orders in situations where there are allegations of continued abuse.

Broader service delivery

1. Increase overall funding for domestic abuse services for women including shelter, transitional outreach counseling, and second-stage housing.
2. Provide capital, operational, and childcare funding for the expansion of domestic abuse service delivery hubs across the province.
3. Increase funding for supervised access facilities, to address the shortage of supervised visitation programs in most communities (Crooks et al., 2010).

¹¹ See Peterborough Family Court legal professionals, Recommendation #3.

Recommended future research

1. Examine the issues involved in child protection (CAS) court proceedings in situations of domestic abuse in Peterborough and across Ontario, as these cases lay outside the scope of this research.
2. In order to enhance understanding of the long-term effects of custody and access arrangements on women and children in situations of abuse:
 - a. research possible feedback mechanisms for the family court judiciary including the tracking of custody and access case outcomes over the longer-term
 - b. collect provincial data on custody and access arrangements being awarded in abusive situations, and track the longer-term outcomes
 - c. conduct longitudinal research on the long-term impacts of custody and access arrangements on women and children in situations of abuse from the point of view of both the women and children.

Conclusion

This Research Report for the YWCA Court Support Project examined key issues, strengths and barriers for women abuse survivors navigating the Peterborough Family Court system. The YWCA has encountered widespread genuine concern and desire amongst project stakeholders to collaboratively improve the Peterborough Family Court response for women and children who have experienced abuse. Improvements to the service delivery system are already being initiated locally. The YWCA will continue to advocate for the Government of Ontario to adopt additional recommendations at the provincial level, to assist in addressing identified issues. The YWCA anticipates that working collaboratively on service-level initiatives, in concert with strong supports coming from the province, will continue to improve the experience of women abuse survivors navigating the Peterborough Family Court system.

BIBLIOGRAPHY

Bancroft, L. (1998). *Understanding the batterer in custody and visitation disputes*. Retrieved from http://www.lundybancroft.com/?page_id=279

Bancroft, L. (2002). *Why does he do that? Inside the minds of angry and controlling men*. New York, NY: Berkley Books.

Campbell, M. (2010). *Threat assessment and risk management in domestic violence cases: An overview of Ontario justice and community collaboration for 2010 and future directions*. Retrieved from <http://www.crvawc.ca/documents/Threat%20Assessment%20and%20Risk%20Management%20report.pdf>

Conrad, J. (2010). *Kawartha Lakes & Haliburton Domestic Violence Coordinating Committee gaps and strengths process mapping project*. Unpublished manuscript.

Crooks, C. V., Jaffe, P. G., & Bala, N. (2010). Factoring in the effects of children's exposure to domestic violence in determining appropriate postseparation parenting plans. In M. T. Hannah & B. Goldstein (Eds.), *Domestic violence, abuse, and child custody: Legal strategies and policy issues* (pp. 22.1–22.52). Kingston, NJ: Civic Research Institute.

Cross, P. (2008). *Through the looking glass: The experiences of unrepresented abused women in family court final report and recommendations*. Retrieved from <http://www.lukesplace.ca/pdf/Pam-Appendix-2.pdf>

Cross, P., & Conlin, T. (2010). *After she leaves: A resource manual for advocates supporting woman abuse survivors & their children during the family law process* (2nd ed.). Oshawa, ON, Canada: Luke's Place Support & Resource Centre for Women & Children.

Cunningham, A. (2003, May). Ethical practice: Principles and guidelines for research with vulnerable individuals and families. *PRAXIS: Research from the Centre for Children & Families in the Justice System*, 1–8. Retrieved from http://www.lfcc.on.ca/ethical_practice.pdf

Dragiewicz, M., & DeKeseredy, W. (2008, March). *A needs gap assessment report on abused women without legal representation in the family courts: Research report*. Retrieved from <http://www.lukesplace.ca/pdf/Molly-Appendix%201.pdf>

Freeman, C. (2009). *Transforming our communities: Report from the domestic violence advisory council for the minister responsible for women's issues*. Retrieved from http://www.oaith.ca/assets/files/Publications/dvac_report.pdf

Giardino, R. (2012). *Enhancing synergy between domestic abuse agencies in a multidisciplinary setting: Challenges and best practices*. Unpublished manuscript. <http://www.trentcentre.ca/our-library/>

Jacobs, B., & Jacobs, L. (2010, June). *Multidisciplinary paths to family justice: Professional challenges and promising practices*. Retrieved from <http://www.lco-cdo.org/family-law-process-call-for-papers-jacobs.pdf>

- Jaffe, P. G., Ashborne, D., & Mamo, A. A. (2010). Early identification and prevention of parent-child alienation: A framework for balancing risks and benefits of intervention. *Family Court Review*, 48(1), 136–152. doi:10.1111/j.1744-1617.2009.01294.x
- Jaffe, P. G., Crooks, C. V., & Bala, N. (2009). A framework for addressing allegations of domestic violence in child custody disputes. *Journal of Child Custody*, 6(1), 169–188. doi:10.1080/15379410903084517
- Jaffe, P. G., Johnston, J. R., Crooks, C. V., & Bala, N. (2008). Custody disputes involving allegations of domestic violence: Toward a differentiated approach to parenting plans. *Family Court Review*, 46(3), 500–522. Retrieved from <http://www.crvawc.ca/documents/AFCC%20Article.pdf>
- Jaffe, P., Zerwer, M., & Poisson, S. (2002). *Access denied: The barriers of violence & poverty for abused women and their children after separation*. Retrieved from http://www.lfcc.on.ca/access_denied_full.pdf
- Jeshani, S. (2010). *Peel region final needs assessment report*. Brampton, ON, Canada: Catholic Family Services Peel-Dufferin.
- Luke's Place Support and Resource Centre for the Denise House. (2008). *Needs assessment and gap analysis for abused women unrepresented in the family law system: Final report and recommendations*. Retrieved from <http://www.lukesplace.ca/pdf/MAG-Research-Summary-Report-Apr-13-08.pdf>
- Office of the Chief Coroner, Province of Ontario. (2010). *Eighth annual report: Domestic Violence Death Review Committee*. Retrieved from <http://www.mcscs.jus.gov.on.ca/stellent/groups/public/@mcscs/@www/@com/documents/webasset/ec094225.pdf>
- O'Marra, A. J. C. (2005). *Domestic Violence Death Review Committee annual report to the chief coroner*. Retrieved from <http://www.crvawc.ca/documents/DVDRC%202005%20Report.pdf>
- Ontario Women's Justice Network. (2005). *Stalking by court: Legal bullying and what can be done about it*. Retrieved from http://owjn.org/owjn_2009/legal-information/aboriginal-law/157
- Peterborough Domestic Abuse Network. (2007). *Domestic violence response protocol for the Peterborough region*. Retrieved from <http://www.pdan.ca/resources.php>
- Sinclair, D. (2000). *In the centre of the storm – Durham speaks out: A community response to custody and access issues affecting woman abuse survivors and their children*. Retrieved from <http://vpcc.ca/reports.html>
- Spencer, K., & Mank, P. (2006, Winter). It's all about team work: A co-ordinated response to family violence. *Child & Family*, 18–24.
- Strack, G., & Gwinn, C. (2007). *Hope for hurting families II: How to start a family justice center in your community*. Volcano, CA: Volcano Press.

Appendix A - Interview guide

Pre- Interview Screening Questions

- Do you have a case before the courts right now?
- Has your experience with the Family or Criminal Court in Peterborough involved concerns for your safety and/or the safety of your children?
- The YWCA doesn't want to put anyone at risk of being harmed in talking about their experience during an interview, so before setting up the interview we ask the following questions:
 - Do you worry that talking in an interview about your experiences of the legal system might be upsetting or hard for you to talk about?
 - Do you see yourself as being in crisis or having a really hard time right now?

Participant characteristics:

- Age: (16-30; 31-45; 46-60; 60+)
- Number of children
- Employment history
- What cultural group do you identify with?
- What's your first language?
- Do you identify as an Aboriginal person (status or non-status)?
- Are you a recent immigrant (in last 5 years) to Canada? What's your immigration status?
- Do you identify as having a disability?
- Do you live in or outside of the city of Peterborough?
- Highest level of education completed? (some high school, completed high school, some college/university, university degree, graduate degree)
- Is there another way you would like identify yourself that's important to you?

Number of times involved with family and criminal court matters around domestic violence?

Family Court

- What was the most recent/significant family court matter about?
- When did you attend family court?
- Did you take him/her to court or were you taken to court?

1) Legal representation (in family court)

Were you represented in court by a lawyer?

- (If no lawyer):
 - What was it like to not have a lawyer?
- (If yes lawyer):
 - How did you find a lawyer?
 - Was your lawyer helpful and respectful?
 - Did you have legal aid?
- Did you access the clerks? FLIC office? Duty Counsel? Where they helpful?
- Did you have enough information overall about the legal process and your case?
- Did your abuser have a lawyer?

2) Legal advice; Judge's decision (family court)

- What legal advice did you receive?
- Did you tell anyone (your lawyer/Duty Counsel/the Judge, etc) about the abuse?
- Did the abuse factor into your case?
- What did the judge decide?
- How does this arrangement work for you?

3) Criminal court:

- Has your abuser(s) been charged with a criminal offense related to his/her violence towards you?
- Have you been charged with an offense relating to domestic violence?
- Which police were you in contact with?
- Did you find the police professional, respectful, helpful?

4) Safety

- Did you fear for your safety while going through the legal process?
- Did you feel safe when going to court?
- Have you ever had a No Contact Order (restraining order/peace bond/mutual peace bond/bail conditions) with your abuser? Were you satisfied with it?

5) Service providers

- Did you get services from other service providers around the abuse and court? Which ones?
- Did you receive services from other local agencies during this general time period? Which ones?

6) Legal system strengths, weaknesses

- What about going through court worked well for you?
- What do you think needs improvement?
- If you had a magic wand, what would you change about the legal system?

Wrap up

What did all of this cost you?

Is there anything else you want to add?

After the interview

- How did the interview go? Did you get out of it what you were looking for?
- Do you want the name of a counselor you can talk to about any of the feelings that might have come up for you during the interview?
- Why did you decide to participate in this study? Do you have advice on how to get more women involved?
- Do you want to continue being involved in this project? Do you want to be part of a focus group later on to help develop or give feedback on some of the strategies that will be designed during this project to improve abused women's navigation of the legal system?
 - If so, is it safe to call? Safe to leave a message?
 - Collect participant contact information.

Appendix B - Informed consent form

Informed Consent Form – Court Support Project

Thank you for participating in an interview for the YWCA Court Support Project. The information from this interview will be used to help YWCA Peterborough Victoria Haliburton to better understand the experiences of abused women going through Family and/or Criminal Court in Peterborough. The information from this interview will also help inform the design of improvements to reduce legal system barriers for abused women. You are being invited to meet with the researcher for an interview, where you will be asked to talk about your experience with the legal system in Peterborough.

The interview is expected to take an hour to an hour and a half. You will receive a \$20 honorarium (and transportation money, if relevant) for participating in the interview. When the interview is over, you will be offered the name of a YWCA counselor, or a counselor at another agency, you can talk to about any of the feelings that may come up during the interview. If you have any questions or feedback after the interview is over, you can call Karine Rogers (the Researcher) at 705-743-3526, x121, or e-mail krogers@ywcapeterborough.org.

Voluntary Participation: Your participation in this interview is voluntary. You can choose not to answer any of the questions, and you can stop the interview at any time. You can also change the interview questions so that you are able to share your experience in a way that is best for you. By participating in this study, deciding to stop the interview or not answering some questions you will not affect your relationship with the YWCA. If you stop participating in the study, any of your collected data will be immediately destroyed.

Confidentiality: All information you supply during this research will be kept confidential. Your name and any other information the researcher considers to be possibly identifying will not appear in any research report. The interview will be face-to-face, and during the interview the researcher will take some notes. Your data (interview notes, confidentiality form) will be stored in a locked cabinet and in encrypted documents on a password-protected computer, and only the researcher will have access to this information. Your data will be stored for up to two years after the interview, after which it will be destroyed.

Limits of Confidentiality:

- 1) If you disclose information about a child (under age 16) who has been or may be at risk of abuse and/or neglect, a report must be made to the Children’s Aid Society;
- 2) If you say you are at risk of serious harm to yourself or someone else;
- 3) When the YWCA Peterborough, Victoria & Haliburton is compelled by a court order to release information.

Limits of Confidentiality Explained

I _____ consent to participate in the Court Support Project being conducted by the YWCA Peterborough, Victoria & Haliburton. I have understood the nature of this project and want to participate. I am not waiving any of my legal rights by signing this form. My signature below indicates my consent.

Signature _____ **Date** _____
Participant

Signature _____ **Date** _____
Karine Rogers - Principal Researcher

Appendix C – Peterborough Family Court applications by representation status, 2007-2011

Number of Applications Filed by Representation Status

Superior Court of Justice, Family

Peterborough

2007 - 2011

Representation Status	2007	2008	2009	2010	2011
Represented by Retained Counsel	358	383	408	350	301
Unrepresented	432	447	401	417	465
<i>Total</i>	<i>790</i>	<i>830</i>	<i>809</i>	<i>767</i>	<i>766</i>

Please Note:

The data in this table reflect the number of represented and unrepresented applicants at the time of filing of an application in the SCJ Family Court.

Source: FRANK Database

Management Information Unit

Criminal/POA Policy and Programs Branch

Court Services Division

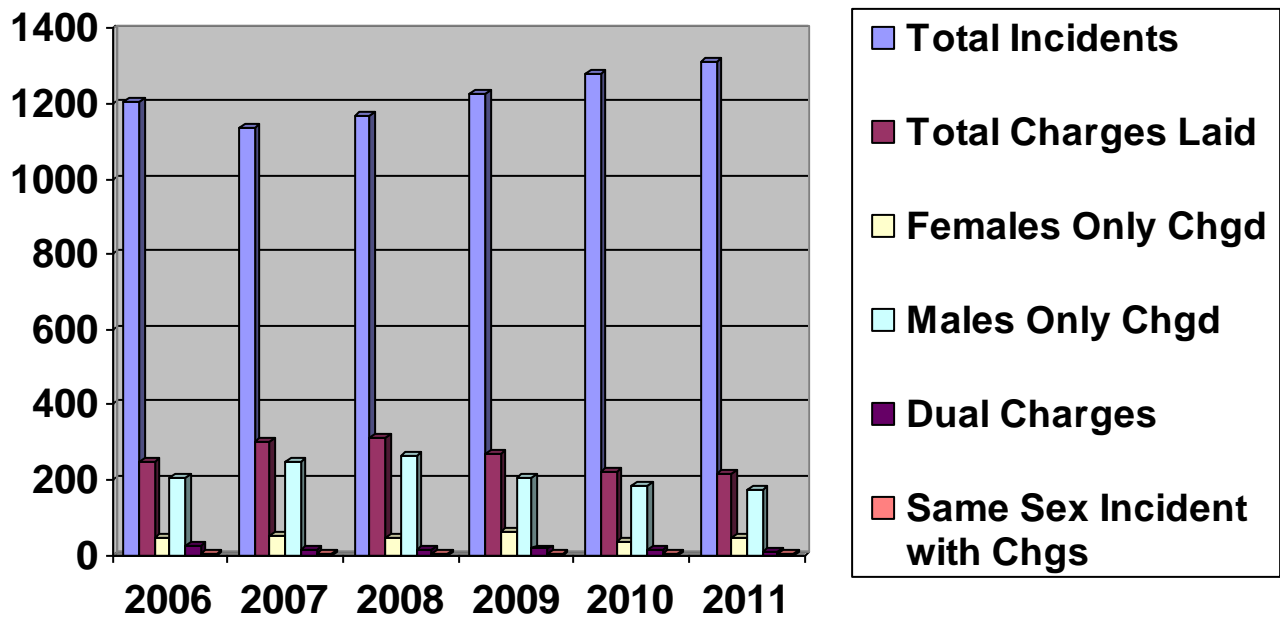
Ministry of the Attorney General

2/28/2012

Appendix D – Peterborough Lakefield Community Police Service domestic incidents 2006-2011

Peterborough Lakefield Community Police Service

Domestic Incidents 2006 – 2011



	2006	2007	2008	2009	2010	2011
Total Incidents *	1208	1136	1170	1226	1281	1311
Total Charges Laid	250	300	311	268	222	214
Females Only Chgd	45	52	46	63	36	44
Males Only Chgd	205	248	265	204	186	172
Dual Charges	26	11	11	16	15	7
Same Sex Incident with Chgs	4	3	1	1	1	2

*Total Incidents includes any incident with intimate partner overtones, verbal disputes and all forms of intimate partner violence.

Appendix E – Summaries of three domestic abuse hub models

1. D.R.I.V.E.N: Durham Region’s Intimate-relationship Violence Empowerment Network

History

In 2005, a community meeting was held where relevant agencies identified interest in the concept of pursuing a Family Justice Center (FJC)-style service delivery hub. In 2007, the collaborative received a 1-year grant from the Ministry of the Attorney General, and in 2010, they obtained a 2-yr Trillium grant. In 2009, Durham Children’s Aid Society (DCAS) donated space for use on Mondays, and the following service partners began offering weekly direct service:

- Bethesda House Shelter and Outreach Support Services
- Catholic Family Services of Durham
- Domestic Violence/Sexual Assault Care Centre (Lakeridge Health)
- Durham Children’s Aid Society
- Durham College/UOIT
- Durham Regional Police Services
- Family Services Durham
- Luke’s Place
- Ontario Works
- Pinewood Centre
- Victim Services of Durham Region
- Brock Community Health Centre

Logistics

- The service runs weekly on Mondays from 8:30 am - 4:30 pm. When a woman comes into DRIVEN, members of the staff team are available to meet as requested by the client. Approximately 60% of clients accessing the centre are walk-ins; one quarter are return clients.
- On-site staff share a common office area when they are not seeing clients; they each bring their own agency laptop and have a desk and internet connection, and remote access to electronic case files if their agency databases permit.
- Off-site partners provide clients with direct phone access, e.g. clients at DRIVEN can connect automatically over the phone to an Ontario Works Intake line without waiting.
- Bethesda House is the lead agency, meaning it is the flow-through agency for funding, manages the budget, and the DRIVEN Project Coordinator reports to their Executive Director.
- An Executive Steering Committee makes decisions and is responsible for grant deliverables.
- Trillium funding ran out in February 2012, and Durham CAS is currently providing bridge funding for coordination.

Lessons Learned

- Having roughly 10 agencies on the Executive Steering Committee allows a committee size that is not too unwieldy and enables quorum. It is important for the committee to include decision-makers from the agencies.
- A central intake process, and therefore single point of entry, is preferable for data collection.
- Community outreach for the project is ongoing.
- Project sustainability requires connecting with politicians and potential donors who might champion the project.

2. Safe Centre of Peel

History

In 2008, Catholic Family Services (CFS) initiated discussion meetings about starting a service-delivery hub, and 12 agencies came to the table. A Steering Committee was established with CFS as the lead agency. The group obtained a 1-year Trillium grant to perform a Needs Assessment in 2010, and CFS then received a 2-year Trillium grant to further hub development. In 2008 CFS received \$1 million and in 2010 another \$2.2 million from a federal infrastructure stimulus grant toward renovating an existing building. The Safe Centre of Peel opened its doors in November of 2011. Their current mandate is to serve women facing intimate partner violence, and they are looking to include a child advocacy component in the future.

Logistics

Hours of operation are Monday to Friday 9-5, and they plan to extend hours into the evening. The hub building belongs to CFS, and the head office of CFS is on site. The particular on-site agency partners have been based on who has been able to come. On-site agencies include:

- Associated Youth Services of Peel
- Catholic Cross Cultural Services
- Family Court Support Worker
- Family Duty Counsel of Legal Aid Ontario (one day per week)
- Catholic Family Services of Peel-Dufferin
- India Rainbow Community Services of Peel
- Legal Clinics (immigration, poverty, housing)
- Peel Children's Aid
- Trillium Health Centre
- Victim Services of Peel

Other complimentary agencies that are not part of the Safe Centre have become building tenants, including a youth drop in, addiction services, and family education, assisting with service centralization and building sustainability.

Lessons learned

- The importance of relationship-building in this process.
- The importance of planners involving and sharing information with the staff that will be working onsite.
- Being comfortable with being uncomfortable since any pilot project doesn't know all the answers. The importance of not getting too caught up in the 'what ifs'.
- Some organizations will be on board, others will not be and this slows down the process. At some point participants must decide if they are in or not.
- A core group should get a coordinator in place, and have monthly advisory meetings. It is important to have someone whose sole purpose is to bring people together and come up with a strategy. The coordinator must do more than just give updates to agencies; agencies have to play an active role. Updates can happen over e-mail. People should be brought together to strategize.
- Always keep in mind how to continue inviting participation in order to avoid any agencies perceiving that they are not involved.
- Try to avoid getting stuck debating terminology. Remember the principles of integration and coordination of services, and survivor input.
- Invite input from survivors in whichever format you can.
- Geographic barriers remain a reality. A satellite office might be considered in the future.
- There is currently no ongoing funder for operations. On site agencies have to make it work within their existing budgets.
- Recommended data tracking:
 - Before startup: training sessions with partners, # of meetings, partner attendance at meetings.
 - After startup: the common intake form, # of consultations between agencies to demonstrate efficiency between organizations.

3. Brantford Virtual Hub

History

In 2008, the Brantford Domestic Violence Coordinating Committee (DVCC) received a Trillium grant to perform a Needs Assessment for a family justice service-delivery hub. Agencies were interested but had concerns about the feasibility of freeing up staff resources to move into a hub. As a smaller community, Brantford agencies did not identify the same need for agency relationship-building through a physical hub as has been identified in larger jurisdictions. The players instead decided to develop a virtual hub for the area, using WebEx technology.

Logistics

WebEx is a virtual conference with one person acting as the host. With signed consents, agencies can conference with one or more services at the same time, depending on what services a woman wants to access. Documents can be shared; forms can be filled in electronically, and parties can print the same document from different locations. The idea is to enable clients to virtually access other services from any of the participating service providers.

In-depth research into security was conducted before implementation. WebEx records on Cisco's server the name, the conference host, date and time of a conference. It does not record which parties participate. The meeting host has the option of assigning the privilege of recording the meeting to any party. The technology costs \$150 per month, and requires access to a computer and landline, and ideally a webcam. Hospitals routinely case conference using WebEx technology.

The virtual hub idea was very popular amongst service providers in the planning phase. Staff were trained on how to use the technology. There has not been significant uptake by agency workers in Brantford, as staff tend to forget to use it. There has been greater uptake on Six Nations reserve where staff often talk with police in multiple jurisdictions. When it has been used, the technology has worked well and gone exactly as planned.

Lessons learned

- A virtual hub can only work if staff see the value in using it. Some staff find using a new service delivery model more difficult than what they are used to. Management must encourage frontline staff to use it.
- Centralized services are useful for those clients who are close to them, but they are hard to reach for some people. A virtual hub may better assist rural populations.
- One idea is to start with those players who are likely to need it most, such as women in rural areas.
- Other smaller jurisdictions in Ontario have expressed interest in the virtual hub model, but a virtual hub has not yet been implemented elsewhere.