



**Family Action Court Team (F.A.C.T.)
Court Watch Project 2008
Background Paper**

Prepared by: Kimberly Abshoff & Stephanie Lanthier

Funded by the Law Foundation of Ontario



The Law Foundation of Ontario
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Woman Abuse Council of Toronto
March 2008

Family Court Watch Project 2008
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Project Description

The Family Court Watch Project was designed to gather and disseminate information regarding Family Court cases that involve women who are victims of domestic violence and in particular to identify the impact of woman abuse on family law proceedings.

Key Findings

- 1) Of the data collected, 62% of the cases were believed to involve woman abuse.
- 2) Children witnessing domestic violence accounted for 36% of the descriptions of abuse in the case file and observation surveys.
- 3) In many cases, children were used as tools of abuse to intimidate, placate and control women. The most common way in which abusive men would use their children to control their partners was to threaten to harm or take away the children.
- 4) There appears to be some inconsistency when granting or denying abusive fathers custody or access to their children. In the examination of the family court cases, neither woman abuse, child witness to domestic violence, post-separation violence or criminal assault charges consistently determined a father's access to his children.
- 5) In the 47 case files surveyed that included domestic violence, high-risk indicators were present in 38% of the cases. Out of these 18 cases, 6 had three or more factors present. The presence of high-risk indicators did not consistently determine access.
- 6) Because of the limited dialogue between criminal and family court there is often no evidence of criminal charges or criminal court proceedings unless documented in women's affidavits. However, the case file surveys documented that 35% of the men had criminal charges for domestic violence and other criminal activity.
- 7) Due to limitations with the data it was not possible to gather a good understanding of the relationship between entering the PAR program and the granting of access. However, the data collected does suggest that fathers are granted more access if they successfully complete a counseling or anger management program.
- 8) Despite detailed accounts of severe abuse and criminal charges laid against the abusive partner, the bench did not question the woman when she 'consented' to give full custody of her child to the partner. The woman had originally held custody. Similarly, a couple that reconciled after the abusive partner completed the Partner Abuse Response program was not asked about the effectiveness of the program nor was the abuse referred to during the proceeding.

9) Court proceedings are often either delayed or adjourned because of the lack of interpreter services. In one case, a family lawyer complained to the judge that the lack of adequate interpreting services had delayed the case on three separate occasions. Additionally, in one case that involved domestic violence the same interpreter was used for both parties.

10) The research team noted on several occasions that women and/or their lawyers highlighted their concerns about women's safety while attending court. For example, a lawyer was observed asking the court clerk where her client could wait safely out of view of the abusive ex-partner. The lawyer was instructed to have the woman sit near a cubicle erected for law students as there was no safe, secure, space for her to wait.

11) There is a lack of information available to women using the family court about domestic violence. While some brochures are available at the Family Law Information Centre or at the client service counter, the information is not given out consistently nor is it adequately visible.

*Family Court Watch Project 2007
Background Paper*

Introduction

Child custody and access are the primary concern of women with children who use the family court system. Many of the women are survivors of domestic violence (Jaffe, 2002). However, current normative family law assumptions often put these women and their children at greater risk.

Family court watch initiatives have found that the family court system presents profound obstacles for women seeking to protect both themselves and their children from abusers (West Coast Legal Education and Action Fund, Family Law Project, Court Watch Report, 2007). Large numbers of women remain unrepresented in the family court process and there is often little recognition that law is ‘gendered’ (West Coast Legal Education and Action Fund, Family Law Project, Court Watch Report, 2007). Many women who are violence survivors find themselves being re-victimized in and by the family court.

In 2003 the Woman Abuse Council of Toronto (WACT) conducted a small pilot family court-watch project that placed students, volunteers, and women-survivors in the courtrooms of the Ontario Court of Justice located at 311 Jarvis St. This initial project was based on the successful Women’s Criminal Court Watch program coordinated by WACT since 1995 that monitors criminal cases in the specialized Domestic Violence Courts. The current family court watch initiative both builds upon, and expands the scope, of the initial study.

One of the most comprehensive family court-watch initiatives was undertaken in the United States by the California chapter of the National Organization for Women in 2002. The study examined nearly 300 cases where women had experienced problems in the family court when the father was contesting a custody or access order. They found that in 86% of the 300 cases the woman was a victim of domestic violence (p. 6). Additionally, 76% of the cases involved violence against the child (*ren*). One of the major findings of this study was that even when evidence of violence against the *child (ren)* was provided in court, the offender was given unsupervised contact or custody of the child by family court judges in 69% of the cases (p. 6)

To date, most research in Canada has been concerned with the criminal justice system's response to woman abuse (see Gillis et al., 2006). The current court watch specifically focuses on examining family court case files and observing family court cases. This is an initial attempt to gain a preliminary understanding of whether or not woman abuse impacts custody and access issues in the family court system.

Literature Review

Domestic violence profoundly shapes the lives of women and children. The literature reviewed here illustrates how domestic violence negatively impacts the emotional and psychological well-being of children, and how post-separation violence is used to exert continued power and control over women and their children. The family court system can ignore domestic violence as a factor in determining custody and access orders, which in turn places women and their children in greater risk of harm. Specifically, the studies surveyed reflect the various ways in which the abusive ex-partner uses access orders and the family court system as tools of abuse.

Over the last 25 years, numerous studies have examined the effects and long-term consequences of children witnessing domestic violence. These studies all agree that ‘exposure to domestic violence has a significant and measurable negative effect on children’s functioning, relative to children from non-violent families’ (Wolfe, Crooks, Lee, McIntyre-Smith & Jaffe, 2003, p.171). ‘Exposure’ to domestic violence most often includes the child being an eyewitness to the violence, hearing the violence or seeing the aftermath. A recent study involving child-witnesses of abuse however found that 42 % of the children were directly threatened with physical harm by the abuser, while 45% were actually, though unintentionally, harmed during the abusive episode (Jaffe, Zerwer, Poisson, 2002, p.7). In 27% of the cases children reported being *harmed directly and intentionally* (Jaffe, Zerwer, Poisson, 2002, p.7). The same study suggests that half the children were victims of physical abuse entirely separate from that of their mother (Jaffe, Zerwer, Poisson, 2002, p. 7).

According to the Children’s Aid Society of Toronto (2005), “children living within a home where domestic violence occurs experience the abuse themselves” (p.1). Studies have found that many children exposed to domestic violence show similar levels of emotional and behavioural problems to children who are ‘direct’ victims of abuse (Jaffe, Wolfe, & Wilson, 1990). In their 2007 study, Cunningham and Baker found that children who witness domestic violence often feel “fear, distress, anxiety, self-blame, guilt, anger, grief, confusion, worry, embarrassment and hope for rescue” (p. 7). They suggest that children are fundamentally ‘changed’ by violence at home in a number of ways including being denied a good father and a positive male model (Cunningham and Baker, 2007, p. 10).

Furthermore, children's exposure to domestic violence is further complicated when women do leave abusive relationships. Foremost, the violence often either escalates or continues. The literature on domestic violence has well documented that women are at a higher risk during the period immediately following and up to 6 months after separation (Canadian Centre for Justice Statistics, 2007). For one quarter of women who have experienced violence, the abuse becomes more severe after separation (Statistics Canada, 2001). Ontario's Domestic Violence Death Review Committee has found that actual or pending separation is the most common risk factor involved in domestic homicides, occurring in 81% of the cases reviewed by the committee between 2003 and 2006 (DVDRC, Annual Report, 2006). A 2001 study noted that the rate of spousal homicide in Canada was more than 25 times higher for separated women than for married women. Concurrently, when women access formal systems to break away from an abuser, these systems often become tools for further victimization and post-separation violence.

Studying Canadian family law cases from 1997 to 2000 that had domestic violence issues, Shaffer and Bala (2003) found that although abusive men were not granted custody when abuse claims were determined to be valid, they were nevertheless routinely given unsupervised access to their children. Consequently, legal and social practices related to child custody and access, have not been developed specific to abuse. Rather, a father's legal right to have contact with his children and current social beliefs based on popular research evidence that suggest contact with both parents is not only in the 'best interests of the child' but mitigate any detrimental effects of separation and divorce currently supersede the risks associated with continued exposure to violence by both the child and the mother (Farney and Valente, 2003). In effect, the lack of family

law policies and practices that would limit or mediate a father's access in cases that involve domestic violence are largely absent because normative family law assumptions prioritize 'friendly' co-parenting and mutual agreement on working out post-separation relationship issues including custody and access orders over safety concerns. For instance, the *Canada Divorce Act* stipulates that the past conduct of a person is not relevant unless it interferes with the ability of that person to act as a parent (Cross, 2001).

Woman abuse is often not viewed as a factor that interferes with a perpetrator's ability to be an effective parent. As a result, women are expected to work out access arrangements with abusive partners. In giving priority to the preservation of family privacy, parental interests and minimal interference of the state in family matters, family law assumptions do not hold abusive partners responsible for their behaviour. Whereas, child protection law now recognizes that children who witness woman abuse are adversely affected and may constitute reasonable grounds for removing a child from the non-abusive parent if the mother does not leave the relationship, woman abuse is not always recognized as grounds to warrant a no access order to the abusive partner. As Farney and Valente (2003) point out, unlike domestic violence law assumptions which take any physical threat or harm seriously (including emotional and financial abuse), family law assumptions view physical harm as limited to involving serious bodily injury or imminent physical danger (p. 44). Again, women and children's risk of being unsafe is often secondary. Although some progress has been made in the development of supervised access centres to help ensure monitored contact between the perpetrator and his children, contact is often nevertheless conditional upon the completion of an intervention program (Jaffe, Crooks, and Wolfe, 2003, p. 209).

The intervention program in Ontario for abusers is the Partner Abuse Response (PAR) program. Introduced in 1997 as part of the Domestic Violence Court Program, the 16-week program provides counseling and educational interventions for partner abusers. Individuals that enter the PAR program are court-mandated through either the Early Intervention Program (EIP) or Coordinated Prosecution (CP). EIP is intended for cases identified as 'low risk' meaning that there have been no prior convictions for domestic violence-related offences, no significant harm to the victim, and no weapons used in the commission of the offence (Ministry of the Attorney General, 2006, p. viii). CP cases involve those in which the individual is a repeat offender or where a 'serious' injury was inflicted (MAG, 2006, p. 7). Typically, offenders mandated to PAR through the EIP program are given a conditional discharge on successful completion of the program (MAG, 2006, p. 100). Individuals who are ordered into the PAR program through CP do so as part of a guilty plea or a conviction after a trial. They receive PAR as a condition of probation. The probation can follow incarceration or a suspended sentence.

No evaluation of the success of the PAR Program in reducing incidences of domestic violence has been completed. Ontario's Ministry of the Attorney General conducted an evaluation of the entire Domestic Violence Court Program in 2006. A small section on the number of individuals entering the PAR program and completion rates was included. This report concluded that about 75% of individuals successfully completed the PAR program (p. 105). Those that entered the program through EIP were more likely to complete the program than those who entered through CP (88% verses 70%) (p. 106).

A 2006 study looked at the attitudinal change of men who had participated in the PAR program. The authors found that men showed improvements in three attitudes

including disavowal of responsibility, blaming their partner and denial (Scott, 2006). This study however was limited in that the conclusions were based solely on the self-report of the men involved. A small study has been undertaken on women's perceptions of their partners both during and following completion of the PAR program. Women's perceptions of their partner's changes after completing the program were less conclusively positive. While all women agreed that it was "very important to have a program available for their current or ex-partners" (Pollack and Mackay, 2003, p. 15-16) the majority of the women "felt that the program was not enough". They recommended that additional components should be integrated into the program including childcare and fatherhood issues. The authors note that: "*in particular, women felt that men needed to know how to communicate better with their children and to understand that they have responsibilities as a father to care for the children*" (Pollack and Mackay, 2003, p. 20, italics in original). Women also suggested that a "follow-up" component be incorporated into batterer's program. One woman stated that though she felt her partner was committed to the program and learned a great deal she saw a "backslide" in his behaviour as soon as the program ended (p. 21). While women described feeling "less alone" and "more justified in claiming abuse is wrong" while their partners were being monitored through the PAR program, they seemed less able to reach out in the period following completion. Though no large, comprehensive research study yet exists on how women and children's circumstances may or may not change after completion of the PAR program, successful completion of the program is a factor in determining child access and custody issues in the family court (Jaffe, 2002).

Studies examining women's experiences after leaving an abusive relationship have found that custody and access proceedings, and visitation become a focal point for on-going abuse post-separation as well as its escalation (Shalansky, Ericksen and Henderson, 1999; Humphreys and Thiara, 2003; Varcoe and Irwin, 2004). The women interviewed in these studies expressed great concern for their safety and the well being of their children. Specifically, women described feeling unsafe in their own homes because their abusive partners knew where they lived, experiencing physical and verbal abuse during access drop-offs and pick-ups, being harassed by phone or being stalked and having their children describe experiences of emotional and sometimes physical abuse during the access visit. Alongside safety concerns were issues of psychological and physical health that were in part directly related to the stress experienced while attempting to comply with court ordered contact visits. Shalansky, Ericksen and Henderson's (1999) study conducted in British Columbia with women who were sharing custody and/or access visitation of their children with abusive ex-partners documented that physical and psychological effects such as nightmares, excessive worry, abusive behaviour towards siblings, over protectiveness of mother, bedwetting and sleep disturbances were reported by mothers following access visitations (p. 418).

Overall, women were left feeling that the legal system did not understand the impact abuse had on their lives and the lives of their children. Nor did it have any bearing on an abusive ex-partners right to have custody and access. In Shalansky, Ericksen and Henderson's study (1999), many of the women interviewed found little support from the legal system when they attempted to use legal methods to resolve the continued abuse that occurred because of existing access orders. Rather, women's concerns were often

ignored or minimized. While some of the women experienced judges who were outraged at the abuse, it bore little weight when it came to deciding custody or access (p. 421 – 423).

While the current literature raises concerns regarding the relative lack of attention given to issues of post-separation violence by the family judicial system, the use of formal systems as opportunities for continued abuse is also an area of great concern yet is given little acknowledgment by the courts. More specifically, abusive ex-partners often use the court system to exert continued power and control. In Varcoe and Irwin's (2004) study, they found that ex-partners would repeatedly challenge court orders for custody and access or child support in order to block arrangements that might be beneficial financially or socially for the women (p. 87). This included repeated court applications requiring "women to make frequent changes in arrangements and frequent court appearances, answer many letters from lawyers, and incur expenses for transportation, child care (to attend court, and to keep appointments with lawyers if they could afford them), and legal fees" (p. 87).

The current literature supports the need for further study into whether woman abuse is being acknowledged as a mitigating factor in access and custody decisions within the family court system. Practices and assumptions that undermine the safety of women and their children in order to give precedence to an abusive parent's ability to have access to his children ignores the detrimental impact post-separation violence and its long term consequences. Rather, the literature demonstrates that domestic violence needs to be a mitigating factor in family court decisions regarding custody and access in order to ensure the safety and well-being of abused women and their children

Methodology

The current study was undertaken to gain a preliminary understanding of how woman abuse influenced custody and access orders in family court decisions. Data was collected through two primary means: the examination of family court documents in the form of case files that contained restraining orders and the observation of family court cases between January and March 2008. All documents and family court cases originated at the Family Court located at 311 Jarvis Street, Toronto, Ontario.

Two Project Coordinators were involved with the initiative. The original part-time Coordinator was hired by WACT at the beginning of 2007. This staff conducted the ‘groundwork’ piece of the study: including survey development; an educational piece; initial contact with Family Court staff; a consultation with WACT’s Women Voices for Action committee (a committee composed of women survivors of domestic violence); volunteer recruitment; and an informal ethics procedure. Volunteers were initially recruited from law schools in Toronto. While a number of law students were interested in assisting with the project, coordinating a training session where the majority of students could attend and having students fulfill their commitment turned out to be a challenge. In November of 2007, the original staff left the position.

The initiative continued in December 2007 with a new Project Coordinator who decided to work with a smaller research team. The final research team consisted of two staff persons, a student with the Assaulted Women’s and Children’s Counselor Advocate Program, and a community volunteer. Additionally, a lawyer assisted in the preparation of this report. The Project Coordinator created a training manual and held a training session prior to data collection for all members of the research team.

The staff at 311 Jarvis including the Court Operations Manager, the representative member of the Toronto Police Service and the client-service staff were supportive of the project and assisted the research team in a number of ways, including ‘flagging’ cases where domestic violence had occurred. Prior to data collection, the Coordinator met with a number of key staff at the Family Court and presented at the monthly ‘Bench and Bar’ session at which judges, lawyers, and other key stakeholders were in attendance. The judges who attended this session expressed interest in the project and asked that the Project Coordinator return to present the findings of the study to them. Additionally, the Coordinator provided a training session on ‘high needs clients’ for the Family Law Information Centre (FLIC) training series.

Fifty-eight case files were examined and analyzed (please see Appendix A). The cases were selected because they had applications or motions for restraining orders. Two research team members examined case files that had applications for restraining orders between the years 2005 and 2007. Cases were read and surveys were filled out that documented significant information regarding child custody, access, child support, woman abuse, and criminal charges against the abusive partner. Surveys were analyzed to glean quantitative and qualitative data.

Forty-five family court cases were observed (please see Appendix B). Research team members filled out observation survey forms during court proceedings. The observations surveys allowed data to be collected on the actual court proceeding and the individuals present in the courtroom. The research team randomly selected court proceedings to observe. Research team members would arrive at the court in the morning

and select one of five courtrooms. The members did ensure that a cross-section of judges were included in the study.

In at least nineteen of the forty-five cases (42%) observed, domestic violence was believed to be involved. The court-watch research team determined that violence was involved when: there were criminal charges for assault; an individual was either entering or in a PAR program; the woman was living in a VAW shelter; a Restraining Order was granted; the parent had only supervised access or the Children's Lawyer was involved; or the lawyer and/or judge spoke about the abuse in detail.

In half of the cases that involved domestic violence, the case files were also examined (due to time constraints, or the case files being unavailable, the researchers were unable to fill out case files for all nineteen). Again, case file surveys were filled out to document relevant information regarding child custody, access, child support, woman abuse and criminal charges against the abusive partner. The same survey model was used for all family court case files read. The observation surveys were analyzed in the same manner as the case file surveys. The family court case files that corresponded with the family court cases that were observed were analyzed together in order to avoid duplication of data, and to provide a fuller picture of the particular case.

Family Court Case File Surveys: An Overview of Findings

Women were overwhelmingly the applicants in the family court case files that were surveyed. Out of 58 case files examined, 50 were ex parte applications ('motion without notice'). Ex parte applications are applications that may be brought without serving the other party. In most cases, ex parte applications are granted only if the judge believes there is: an immediate health or safety risk to the individual or their child and a

delay in serving the other party would probably have serious consequences; immediate danger that a child will be removed from Ontario; or that it is not reasonably possible for an individual to notify the other party.

In 8 out of 58 cases examined, women were the respondent. In two of these cases, the male ex-partner applied for a restraining order, which was granted. In both of these instances, the restraining order was for harassing behaviour and was vacated within 6 months. One case involved a father asking for an order that his child not be removed from the country without his consent. This motion was granted. The other 5 cases involved fathers seeking custody of their children. In all 5 cases the fathers were granted temporary custody of their children. In one of the cases, the couple has reconciled. One case was transferred to another family court. In the remaining 3 cases, custody reverted back to the mother.

Proceedings lasted anywhere from one day to 4 years. Three cases are currently ongoing. One case has been in the family court system for 4 years and the other 2 ongoing cases started in 2006. Three cases surveyed were abandoned for reasons unknown.

In the cases files surveyed, 90% involved children. In these cases, 90% of the motions or applications were for sole custody, 60% were for no access, 56% were for non-removal of the child and 19% for child support. Out of the 58 case files 84% had motions or applications for a restraining order.¹

Although 66% of applicants had retained counsel at some point during the proceedings, the surveys collected did not indicate whether women had multiple lawyers,

¹ In one case, siblings, aged 16 and 17, applied for a restraining order against their abusive father. The siblings had left home and were living in a shelter. The application for a restraining order was granted for two years and there was to be no communication between the father and the siblings.

duty counsel or retained a lawyer for part or the entire course of the proceedings.² In comparison, 85% of the respondents were men, but only 42% of the respondents had retained a lawyer. Only 6.7% of the respondents used duty counsel compared to 29% of applicants. Hence, more than half the respondents were self-represented. Again, the surveys were limited in assessing whether respondents retained counsel throughout the entire family court case, whether multiple lawyers were involved in the case, and whether duty counsel was used for all court appearances.

In only 6 cases was there an indication that interpreters were needed throughout the court proceedings. Although in all 6 cases interpreters were provided, the surveys did not detail whether or not interpreters were present during all of a particular case's motion hearings, case conferences, settlement conferences or any other time that individuals were present in court or met with lawyers or court representatives.³ The lack of adequate interpreter services is an issue that arose in the observation of family court cases and will be discussed in greater detail later in the report.

Reports of Abuse

The case file data collected revealed that 81% of the cases involved woman abuse. Affidavits submitted to support motions for custody, restraining orders, non-removal orders and limitations on access by 47 of the 58 women included detailed histories of abuse. Physical abuse was detailed in 98% of domestic violence cases. Specifically, women gave accounts of being punched, kicked, hit, slapped, choked, strangled with a

² Eighty-five percent of the applicants were women.

³ Applicants needed interpreters for the following languages: Somali, Farsi, Amharic, Tamil, Cantonese, Greek and Arabic. In the case of the need for a Cantonese interpreter the judge's secretary was used.

telephone cord, hit with objects, restrained, smothered with a pillow, strangled, forcibly confined in a room, car or home, spat on, pushed, thrown to the floor and having objects thrown at them. Some women described the physical injuries they received as a result of such physical assaults. Injuries included a broken hand, blackened eyes, knocked out teeth, bruising on the body and face, a broken nose, a displaced kidney, knife cuts on the hand, head wounds from being hit with an object or hitting a wall, and a twisted arm. These accounts of abuse were not limited to single incidents but rather were part of a complex history of abuse within a relationship that also often included other forms of violence. Often this abuse escalated as women attempted to leave the relationship or after separation. For one woman the abuse spanned 16 years of the relationship.

Several women wrote in their affidavits that physical assaults also often included weapons and occurred with children present. For example, one woman reported an incident where her partner allegedly punched her and held a knife to her throat while she was nursing her infant son. This resulted in her hand being slashed as she tried to shield her child. A number of other women had been threatened with physical harm or death with a knife. Two women described in detail how, while living outside of Canada, their partners had fired a gun directly towards them or their children. In a few instances, physical assaults were also directed at other family members. For example, one woman's husband reportedly physically assaulted her mother. However, many more women described being physically assaulted by their ex-partners while their children watched or were in the room.

Children witnessing domestic violence accounted for 34% of the descriptions of abuse. Children witnessed both verbal and physical abuse of their mothers. For example,

women reported that their abusive ex-partners would yell, name call, fight, argue and physically assault them in front of the children. One woman described how her ex-partner would routinely degrade her while the children were present and also taught the children to call her 'slave'. Some women described how the exposure to woman abuse was affecting their children's behaviour. One mother, in particular, expressed concern that her older son was becoming increasingly verbally aggressive with her and would justify his behaviour because that is how his father talks to her. This same mother's younger son was becoming increasingly physically aggressive toward her and telling her that 'daddy hits mommy' to explain his behaviour.

In 87% of the cases, a history of emotional abuse was mentioned⁴. Most of the women reported that their partners repeatedly threatened to harm or kill them throughout their relationship or after separation. For instance, one woman described how after she left her home to live with her mother, her abusive ex-partner would call her repeatedly and threatened "I will cut off your head and put in on the news" or that he would find her at work or at home and kill her. Another woman recounted that her ex-partner would threaten her by telling her that "I wish we were in my country so I can knock all of your teeth out" and "consider me your enemy". Another woman's partner explained in great detail how he was going to harm and poison her.

In a few instances, women recounted threats made by their abusive partners to harm themselves. One woman detailed the constant harassment she endured by her partner to resume their relationship. This not only included threatening phone calls but messages left on her answering machine to the effect that her ex-partner would cut and

⁴ This would include verbal abuse such as name-calling, threatening harm or death, making degrading comments and swearing.

kill himself if she did not get back together with him. These threats culminated in the ex-partner turning up at her home, trying to kick the door down, cutting himself with a knife which he then deposited through the mail slot and attempted to gain entry into the house by climbing onto the balcony.

In many cases, children were used as tools of abuse to intimidate, placate and control women. The most common way in which abusive men would use their children to control their partners was to threaten to harm or take away the children. For immigrant women, the threat of removing their child(ren) from Canada was frequently used by their abusive partners. One woman had to call police and an amber alert was issued when her ex-partner did not return the child. Fortunately, police were able to apprehend the ex-partner and return the child before he crossed the border into the United States. A citizen of Mexico, this abusive ex-partner was on his way to Mexico with the child.

Other threats included calling CAS, social services or immigration. Some of the women found themselves having to deal with allegations of neglect or child abuse after separating from their abusive partners. In two specific cases, both fathers had temporary custody of their children while allegations of abuse or neglect were pending against the mothers. In both cases the mothers regained custody of their children as the allegations were unfounded. For immigrant women, the threat of losing their children or their immigrant status was a deterrent from seeking help from the police or other community agencies. In two incidences, immigrant women recounted that they did not actively seek help because they were unaware of the resources available to them, and that in their home countries woman abuse was considered a private matter.

Several women wrote in their affidavits that their partners would lock them as well as their children out of the house or apartment as a form of punishment. Isolation from family and friends was also mentioned by some of the women. For immigrant women, isolation included not being allowed to work or take ESL classes.

Financial abuse was mentioned in five case files that were surveyed. Women experienced not only financial dependency but also described going without money to provide adequately for their children. One immigrant woman stated that her husband would not allow her to work.

Women in six cases also described sexual abuse. This included being raped while dating or after separation, forced to have sex after physical assaults, and being sexually assaulted during an access visit. In this last instance, the woman was able to call police who quickly responded.

In 4 cases, children were described as specific targets of physical abuse. This commonly meant the physical disciplining of children. However, a few women suggested the neglect of children's emotional, physical and safety needs. One mother was particularly concerned that her child's father was not vigilant about her daughter's peanut and banana allergies and had yet to provide the child with a car seat. Another mother detailed that her child was fearful of the father and would not stay alone with him.

Eight women also mentioned spending some time in a woman's shelter in the recent past, just prior to the beginning of the court proceedings or throughout part of the court case.

Abuse during pregnancy was also indicated in 7 of the case files examined. One woman described being beaten with a belt while pregnant. Another woman described

being kicked in the stomach early on in her pregnancy. One account described an incident where the woman was choked while pregnant.

Custody and Access

In the 52 case files that included children, a total of 81 children were part of the proceedings. They ranged in age from newborn⁵ to 18 years old. Women generally retained sole custody of their children. However, in 4 cases fathers did have custody of their children at some point throughout the proceedings: 3 of the 4 cases involved domestic violence. In one case, parents with two children each agreed to retain custody of one of the children with the other parent having weekend access. In the remaining three cases, fathers were the applicants seeking custody of their children. Of these cases, one father was awarded temporary custody but consented to the mother having sole custody of the child as long as he was able to have access to his child; one father was awarded temporary custody until the mother regained custody following a CAS investigation that resulted in no findings of abuse or neglect against the mother; and one father took physical custody of the child before the mother was able to apply for custody. In this case the mother was awarded temporary custody of the child.

Criminal charges against abusive ex-partners and decisions regarding access

In 37 out of 47 cases that involved domestic violence fathers were either denied access or chose not to pursue access. However, there appeared to be some inconsistency

⁵ One child was born in custody while the father's access to the child's sibling was being decided in family court. The custody and access order that was in place had to be amended to include an order whereby the mother retained full custody of the newborn and the father received the same access agreement to the newborn as he had received for the older sibling.

when granting or denying fathers access to their children. In the examination of the family court case files, neither woman abuse, child witness to domestic violence or criminal assault charges consistently determined a father's access to his children. In 10 cases files with histories of woman abuse, fathers were given access to their children.

Unsupervised Access and Assault Charges

In two cases, fathers with histories of numerous assault charges were ultimately given unsupervised access. In one case, the father was charged with 14 offences that included assault with a weapon, uttering death threats and 7 counts of causing bodily harm. The mother, in this case, had received a broken hand, black eye and knocked out teeth due to physical assaults by her abusive partner. Both of her children were exhibiting aggressive behaviour that was directly attributed to the verbal and physical violence the mother experienced at the hands of the father. The Children's Aid Society advised that it was best if the children were not around the father and exposed to his abusive behaviour. Although the mother was granted custody, an interim no access order and a restraining order on an ex parte motion, the father was given access of a maximum of 3 hours per week at a supervised access centre two months later. After completing an anger management program 4 months later, the father was given unsupervised access. In this case, access can be renegotiated after the father finishes probation despite CAS having protection concerns if the children live with the father. The father in this case has applied for joint custody.

In the other case, the father was ordered to go to counseling and the children were advised to seek counseling for witnessing domestic violence. However, the father in this

case was given reasonable access that was to be negotiated between the parents. This family had been evicted from subsidized housing because of domestic violence. The father had been charged with forcible confinement and assault, and a previous restraining order had been in place in 2004.

Unsupervised Access

Four other cases also include unsupervised access orders. In one of these cases, the mother recounted a history of abuse that involved being beaten with a belt while pregnant, threatened with a knife, and allegations that the respondent had threatened to harm himself and the child. This mother spent 10 months in a women's shelter with her young child. The initial ex parte motion for a restraining order and non-removal of the child was granted and remained in effect for 16 months. During this time, the mother was awarded custody and child support, and the father was given interim access to be supervised by a mutual third party. The final decisions in this case terminated the restraining order and gave unsupervised access to the father.

In the second case, the father has been granted unsupervised access on alternate weekends and on one day during the week as long as the father is abstaining from drinking alcohol. A psychologist has been court ordered to mediate the parenting issues but the father has not complied with the order.

In the third case, there is a previous court order from another province for anger management and parenting courses that the father did not complete. In this instance, the father has custody of one child and unsupervised weekend access with the other child.

The fourth case involved parents who previously had been working cooperatively regarding custody and access. However, this father was charged with assault with a weapon and cocaine possession after he attempted to strangle the applicant with a telephone cord. At this point, the father had supervised access every other weekend. The post-separation violence escalated when he harassed the applicant to say that despite the order he can see his children whenever he wanted, and when he accosted his ex-partner and his children on the street and attempted to grab one of the children. Despite having supervised access prior to this incident, two years later he is given unsupervised access every other weekend.

Access at the discretion of the mother

This case involves a five-year restraining order that is in place against the respondent who has also been convicted of assault for domestic violence. Although initially the father was granted access to his children twice a month to be supervised by his mother, the final access order is at the mother's discretion. In this case, the mother is expected to facilitate access despite a previous no contact order and a five-year restraining order.

Supervised Access

In the 3 remaining cases that involve woman abuse, fathers were given supervised access. In one case, the father had successfully completed the PAR program. In this case, the father was given no access because criminal charges related to domestic violence were pending. This father did gain interim access to his child twice weekly for 2 hours.

This access was again changed to supervised access during the week and an increase in access on Sundays. Because allegations of child abuse related to a child from a previous relationship and who is currently a Crown ward, the father's final access will be decided pending an evaluation regarding his risk for unsupervised visits with the child involved in this family court case. A trial management conference was scheduled for March 2008 to decide access issues.

In the second case, the father had been given final supervised access for 2 hours per week. This father was facing a deportation order related to the unsuccessful appeal of his refugee claim due to a previous criminal record for drug trafficking and being deemed a 'dangerous person' at his refugee hearing.

The third case is still pending waiting the outcome of the respondent's criminal trial. The respondent is charged with several counts of assault, assault with a weapon and assault causing bodily harm. One condition of his bail is to have no contact with the applicant and to communicate with her by way of a journal. Currently, this father has access to his child on alternate weekends that is to be supervised by his brother and his brother's girlfriend.

High Risk Indicators

High Risk Indicators are factors associated with increased risk of serious injury or death of women in abusive relationships. Between 2002 and 2005 there were 113 domestic violence homicides that occurred in Ontario (DVRDC, 2006, p.4). In 95% of these incidents, women were the victims (DVDRC, 2006, p. 5). Common risk factors from the DVDRC analysis include: history of domestic violence; actual or pending separation; perpetrator appears 'depressed'; escalation of violence; obsessive behavior

displayed by perpetrator; prior threats to kill victim; prior attempts to isolate victim; prior threats/attempts to commit suicide; access to or possession of firearms; control of most or all of victim's daily activities; excessive alcohol and/or drug use; and a history of violence outside the family. In 72 % of the cases, ten or more of the indicators were present; seven to nine factors were present in 13% of the cases and one to three factors were present in 9%. In 5 of the domestic homicides that occurred between 2004 and 2006, the abusive male partner who ultimately murdered his wife and/or children had been granted unsupervised access or custody by the family court (DVDRC, 2006, Case # 1, 9, 14; DVDRC, 2005, Case # 11; DVDRC, 2004, Case #3).

In the 47 case files surveyed that included domestic violence, high-risk indicators were present in 38% of the cases. Out of these 18 cases, 6 had three or more factors present. Again, the presence of high-risk indicators did not consistently determine access. While, domestic violence was acknowledged in terms of ordering restraining orders, an acknowledgement of its impact post-separation and on the children was less evident. However, it is difficult to determine what factors play a role in determining access issues only by examining court documents. Yet, what the data does suggest is the need for further observation and study in order to gain a more complete picture of how a history of violence and woman abuse is factored into family court decisions.

Criminal Charges: An Overview

The Criminal Court Watch conducted by WACT in 2006 observed 96 domestic violence cases in which 183 criminal charges were laid (p.7). In 55% of the cases, charges included common assault, assault with a weapon and assault causing bodily harm. The most common charge in 49% of cases was common assault (p. 7). However,

20% of the charges laid were dropped. Furthermore, out of the 96 cases, 67% included a plea or finding of guilt. Yet, 15% of the offenders were given an absolute discharge, meaning their would be no record of conviction, and 26% received a conditional discharge, meaning there would be a finding of guilt by the court yet no criminal record (p. 12) Only 23% received a criminal record or jail time (13% received a suspended sentence and 5% received jail time) compared to 50% in 2003 (p. 13). Of the cases in 2006 where the accused was found guilty, 49% received probation along with their sentence, and 51% were mandated to enter a counseling program. This is a significant decrease from 2003 where 80% of cases with a guilty finding observed by the Women's Court Watch Project were mandated to the PAR program (p. 14).

Because there is little or no dialogue between criminal and family court there is often no evidence of criminal charges or criminal court proceedings unless documented in women's affidavits. However, the surveys documented that 35% of the men had criminal charges for domestic violence and other criminal activity. Criminal charges included assault, assault with a weapon, assault causing bodily harm, kidnapping, forcible confinement, drug trafficking and threatening death or uttering death threats. Of the men charged it was known that 43% had been convicted for all or some of the criminal charges against them. Many of the cases included multiple charges being laid. However, it was difficult to assess what kinds of sentences these men received because we did not have access to the criminal court records and most of the affidavits in the case files did not include a description of sentences received for convictions of charges related to domestic violence. Nor was it possible to accurately ascertain how many of these men were mandated into the PAR program.

Unfortunately, due to limitations with the data it was not possible to gather a good understanding of the relationship between entering the PAR program and the granting of access. However, the data collected does suggest that fathers are granted more access if they successfully complete a counseling or anger management program. For instance, in one case file surveyed a father was given unsupervised access after he finished counseling. A long-term study would allow for domestic violence cases in the family court system to be followed from start to conclusion and would therefore likely better glean this kind of data.

Similarly, as indicated above, pending criminal charges or criminal convictions related to domestic violence have not been found to have significant or consistent bearing on a father's access to his children. There was little evidence in the case files to suggest that post-separation violence and children witnessing violence is consistently acknowledged as a factor when making access decisions. In the 47 case files surveyed where domestic violence was indicated, one case file included a detailed letter by the presiding judge that the history of violence in the relationship was detrimental to the child and was an important factor in denying this father access to his child.

Family Court Observation Surveys: Overview of Findings

Data obtained from the observation surveys was not as detailed as those of the case files. This is due to the challenge of filling out surveys for cases where the context or history of the matter being observed is not known or the court appearance may move quickly or be adjourned promptly. The research team noted that in some cases where domestic violence was involved, members of the court, lawyers, or the client themselves

would mention the abuse only in passing or as an addendum. Thus, it was helpful in these cases, where time permitted, to consult the case files as well.

As noted previously, domestic violence was believed to be involved in at least 19 of the 45 cases the research team observed. For the purposes of this paper, we will include findings only for the cases believed to involve domestic violence.

As with the case file surveys, women made up the vast majority of the applicants. Children were involved in all 19 of these cases. The majority of the observed cases for which a case history is available, have been ongoing since 2007. In 5 cases interpreters were either present or requested. Languages included Tamil, Russian, Spanish, Urdu and Tibetan. Court proceedings are often either delayed or adjourned because of the lack of interpreter services. In the cases observed several other problems arose regarding interpreter services. In one case that had involved domestic violence and the couple were reconciling, the same interpreter was used for both parties. In another case, a family lawyer complained to the judge that the lack of adequate interpreting services had delayed this case on three separate occasions. This lawyer commented that at the last court appearance, the interpreting was 'bad'.

Reports of Abuse

Details of the woman abuse were available for 14 of the cases. Criminal charges for assault, uttering threats, or failing to obey a court order were laid in 8 of the cases. In 7 of the 8 cases the male abuser was charged. In one case, a young woman was charged after *she* called the police because her (much older) partner was reportedly assaulting her. The woman was using alcohol at the time of the incident, and attempted to defend herself

during the attack. The woman eventually pleaded guilty to the charges and was placed in a PAR program through the Elizabeth Fry Society. According to the woman's lawyer, the male partner continues to use the threat of "calling the police" as a coercive tactic.

Women reported being punched, kicked, thrown against a wall, choked, threatened in front of their children, isolated, controlled, stalked, harassed, hit in the stomach while pregnant, threatened death, and forced to have sex with the children present. Male partners also were reported to have threatened to harm, kill, or take the children from the woman or threatened to harm or kill themselves. Some women suggested that their partner had complete control over all the finances, with one woman reporting that her husband changed the passwords to all the bank accounts so she could not access any money.

Children were reported to have witnessed the violence in at least 7 of the cases. In 4 of the 7 cases the father has custody or unsupervised access. In one case, the father has sole custody while in two cases the parents have joint custody. The remaining father has unsupervised access.

Custody and Access

In 13 of the 19 cases women held sole custody of the children. In two cases the parents had joint custody, while in one case the woman 'consented' to give up custody to her ex-partner. It is notable that in all three of these cases, the abuse detailed by the women stands out from others in the intensity of the violence and control. In the case where the woman agreed to give sole custody to her ex-partner, the violence was noted to be severe and ongoing for many years. During the court proceedings, the lawyer stated

that the woman had been subjected to repeated physical and verbal assaults. The woman's partner reportedly controlled everything she did including buying all her clothes for her, intercepting her mail, hiding her documents, forbidding her to see her family for almost 10 years, and stopped her from becoming a Canadian citizen. He also repeatedly made unfounded reports to the Children's Aid Society and used her name to open numerous credit card accounts. In early 2007, the male partner was arrested for assault. Shortly after, the woman was granted an ex parte custody and restraining order. The female applicant continued to have custody for roughly 10 months, with the respondent having access. At the end of 2007 however, the respondent was granted interim custody while the applicant's 'medical issues' - seizures - were resolved even though she had a doctor's note stating that she was in good health and the seizures were controlled with medication. Despite the fact that the lawyer detailed the abuse including criminal charges the bench still accepted the applicant's 'consent' to give sole custody to the respondent, while she was to have reasonable access and pay child support.

The two cases in which 'joint custody' was granted both involve young women married to older men. In both cases the women reported severe and ongoing physical and verbal abuse in front of the children and in both, the fathers have unlawfully taken the children and refused to give them back. In at least one of the cases, the police were involved in returning the children to their mother. The joint custody arrangement in this case was modified after police involvement, with temporary custody going to the mother. The final custody order is to be decided at a later date. In this case, the man is required to have his mother present when he has the children.

The other case involving joint custody was the one mentioned previously in which the police charged the woman when she reportedly defended herself against her abuser. The case history shows that the male partner has continued to threaten her with calling the police and the CAS had been involved with the man for children from another relationship. This couple was also referred to mediation, which is inappropriate for relationships in which abuse is suspected (If Low Income Women of Colour Counted in Toronto, 2003). The man is currently in the process of seeking sole custody due to concerns about the woman's alcohol abuse. The tone of this court proceeding seemed to indicate that concerns about alcohol abuse are more serious than a history of woman abuse in rendering custody decisions.

In the majority of the observed cases where the mother held custody, the father had supervised access. In 2 cases the father had no access, while in 2 cases the father had unsupervised access, but the drop-off and pick-up of the children was supervised. At least six fathers were in court trying to change the access conditions. In the case of one couple, the woman, a newcomer to Canada, is currently residing in a shelter for assaulted women and children. The abuse detailed in this case included several physical assaults during pregnancy and repeated threats to take the baby once she gave birth and to kill her other children. Though the couple had been granted a divorce in their country of origin, he has reportedly stated that "divorce is just a piece of paper and that they would be together until they die." In this case, the bench appeared adamant that the father should have access, but needed to further investigate claims of "child abuse".

Criminal charges against abusive ex-partners and decisions regarding access

In at least 4 cases where the father had access, the male partner either had criminal charge pending or had been convicted of domestic violence related crimes. The father had supervised access in 2 of these cases, while in one the father was originally granted supervised access, but had his access suspended for verbally assaulting the supervised access centre staff. One father who is reported to have stalked, harassed, threatened, punched, kicked, brutally beaten, threatened death etc. and has outstanding charges on domestic violence related crimes has unsupervised visits with his children, though overnight visits were not granted by the bench.

Reconciling couples

In one case the couple decided to reconcile. The male partner had been criminally charged and had attended the PAR program. When the couple appeared in court, he had completed the program and the probation order that prohibited contact between the two parties was finished. The bench in this case made sure the couple was in agreement and then wished the couple "good luck" without addressing the abuse or inquiring about the impact of the PAR program in changing the abusive attitude and behavior of the male partner. It should be noted as well that, on consent, the same Tamil interpreter was interpreting for both parties.

Women's Safety in the Court House

The research team noted on several occasions that women and/or their lawyers highlighted their concerns about women's safety while attending court. A lawyer was observed asking the court clerk where her client could wait safely out of view of the abusive ex-partner. The lawyer was instructed to have the woman sit near a cubicle

erected for law students to work at while at the court. One of the researchers also noted that an unrepresented woman approached her in the waiting area and asked her for help because she was scared to sit alone with her ex-partner close-by. This woman disclosed that she had left the relationship due to ongoing abuse. Yet another example observed by a researcher included the abusive partner approaching his wife from behind in the waiting area and saying "I'm here" in a menacing tone. The woman was in court for a restraining order and custody after the male partner had taken her children and refused to give them back. She was residing in a shelter for assaulted women and children at the time.

Members of the research team noted that information about domestic violence for women using the family court is lacking. While some brochures are available at the Family Law Information Centre or at the client service counter, the information is not given out consistently nor is it adequately visible. In addition, the security office which is the only place abused women can turn for safety while at the family court, removed a display with information for women who have experienced violence. The TPS representative now keeps the information in a cardboard box beside his desk, as there is no other place for him to display it. Not only is there no visible information in the security office, posters that had originally been placed around the court house indicating to women who feared for their safety to approach security officers have also been removed.

Key Findings

- 1) Of the data collected, 62% of the cases were believed to involve woman abuse.
- 2) Children witnessing domestic violence accounted for 36% of the descriptions of abuse in the case file and observation surveys.

3) In many cases, children were used as tools of abuse to intimidate, placate and control women. The most common way in which abusive men would use their children to control their partners was to threaten to harm or take away the children.

4) There appears to be some inconsistency when granting or denying abusive fathers custody or access to their children. In the examination of the family court cases, neither woman abuse, child witness to domestic violence, post-separation violence or criminal assault charges consistently determined a father's access to his children.

5) In the 47 case files surveyed that included domestic violence, high-risk indicators were present in 38% of the cases. Out of these 18 cases, 6 had three or more factors present. The presence of high-risk indicators did not consistently determine access.

6) Because of the limited dialogue between criminal and family court there is often no evidence of criminal charges or criminal court proceedings unless documented in women's affidavits. However, the case file surveys documented that 35% of the men had criminal charges for domestic violence and other criminal activity.

7) Due to limitations with the data it was not possible to gather a good understanding of the relationship between entering the PAR program and the granting of access. However, the data collected does suggest that fathers are granted more access if they successfully complete a counseling or anger management program.

8) Despite detailed accounts of severe abuse and criminal charges laid against the abusive partner, the bench did not question the woman when she 'consented' to give full custody of her child to the partner. The woman had originally held custody. Similarly, a couple that reconciled after the abusive partner completed the Partner Abuse Response program was not asked about the effectiveness of the program nor was the abuse referred to during the proceeding.

9) Court proceedings are often either delayed or adjourned because of the lack of interpreter services. In one case, a family lawyer complained to the judge that the lack of adequate interpreting services had delayed the case on three separate occasions. Additionally, in one case that involved domestic violence the same interpreter was used for both parties.

10) The research team noted on several occasions that women and/or their lawyers highlighted their concerns about women's safety while attending court. For example, a lawyer was observed asking the court clerk where her client could wait safely out of view of the abusive ex-partner. The lawyer was instructed to have the woman sit near a cubicle erected for law students as there was no safe, secure, space for her to wait.

11) There is a lack of information available to women using the family court about domestic violence. While some brochures are available at the Family Law Information Centre or at the client service counter, the information is not given out consistently nor is it adequately visible.

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Appendix A



File # _____

FAMILY ACTION COURT TEAM: CASE FILE SURVEY

Completed By: _____ Date: _____

Names of parties involved: _____

Start date of proceedings: _____ End date of proceedings: _____

PRELIMINARY INFORMATION

Location of Court: Central Toronto, 311 Jarvis _____
North York, 47 Sheppard Ave E _____

Name of Judge: _____

Does the applicant have counsel? Yes No

Does the respondent have counsel? Yes No

Motions/Issues and Date:

Has an “ex parte” application (“motion without notice”) ever been made?

Yes No If yes, why? _____

If yes, was this motion denied?

Yes No If yes, why? _____

Were there any of the following representatives present? (Check all that apply)

- The Children’s Lawyer
- The Family Responsibility Office
- Ministry of Community, Family and Children Services
- Children’s Aid, Catholic/Jewish Children’s Aid, Native Child & Family Services
- Duty Counsel
- Family Council
- Interpreter *

* If necessary was an interpreter provided by the court? Yes No
If so, what language: _____

CUSTODY AND ACCESS

Does the couple in this proceeding have children? Yes No

How many? _____
Age range? _____

Who currently has custody of the children? Mother Father Joint Other

Has custody been renegotiated? Yes No

What, if any decisions, has the judge made on custody? _____

Have there been interim conditions of access? Yes No

If yes, what were the interim conditions? Supervised Unsupervised No Access

Has access been renegotiated? Yes No Unsure

What, if any decisions, has the judge make on access? _____

Did the court, as a factor in determining custody/access, acknowledge the impact on children who witness domestic abuse? Yes No N/A Unsure

Did the family court issue an access order that contradicted with criminal court orders? Yes No N/A Unsure

SUPPORT

Which parent is responsible for paying child support? Father Mother Unsure

Is the responsible parent paying child support? Yes No Unsure

Was legal action required to get payment? Yes No Unsure

Is child support in “arrears”? Yes No Unsure

If yes, how long? _____

ABUSIVE BEHAVIOURS

Please indicate which forms of abuse were present in this relationship:

Physical Emotional Financial Sexual Child Witness

Please give details of the domestic violence in this case.

Are there criminal charges facing the abusive partner for domestic violence (assault, threats etc.)? Yes No Unsure

Are there any criminal convictions for domestic violence (assault, threats, etc.)? Yes No Unsure

Has there been a restraining order against the abusive partner? Yes No Unsure

Were any high-risk indicators mentioned in this case? Yes No Unsure

If yes, were the indicators acknowledged by the court and used to help determine conditions of custody and access? Yes No Unsure

If yes, which high- risk indicators were used in the case? _____

Adjournment Date (if applicable): _____

Any other information that you feel is relevant? _____

Appendix B



File # _____

FAMILY ACTION COURT TEAM: OBSERVATION SURVEY

Completed by: _____ Date: _____

Names of parties involved: _____

Start time of proceedings: _____ End time of proceedings: _____

PRELIMINARY INFORMATION

Location of Court: Central Toronto, 311 Jarvis _____
North York, 47 Sheppard Ave E _____

Name of Judge: _____

Does the applicant have counsel? Yes No
If no, why? _____

Does the respondent have counsel? Yes No
If no, why? _____

Motions/Issues _____

Was an “ex parte” application (“motion without notice”) made?

Yes No If yes, why? _____

If yes, was this motion denied?

Yes No If yes, why? _____

Were there any of the following representatives present? (Check all that apply)

- The Children’s Lawyer
- The Family Responsibility Office
- Ministry of Community, Family and Children Services
- Children’s Aid, Catholic/Jewish Children’s Aid, Native Child & Family Services
- Duty Counsel
- Family Council
- Interpreter *

* If necessary was an interpreter provided by the court? Yes No
If so, what language: _____

CUSTODY AND ACCESS

Does the couple in this proceeding have children? Yes No

How many? _____

Age range? _____

Who currently has custody of the children? Mother Father Joint Other

Is custody being renegotiated? Yes No

What, if any decisions, did the judge make on custody? _____

What are the interim conditions of access? Supervised Unsupervised No Access

Is access being renegotiated? Yes No Unsure

If yes, who has been consulted? (ex: CAS, etc.) _____

What, if any decisions, did the judge make on access? _____

Did the court, as a factor in determining custody/access, acknowledge the impact on children who witness domestic abuse? Yes No N/A Unsure

Did the family court issue an access order that contradicted with criminal court orders?
 Yes No N/A Unsure

SUPPORT

Which parent is responsible for paying child support? Father Mother Unsure

Is the responsible parent paying child support? Yes No Unsure

Was legal action required to get payment? Yes No Unsure

Is child support in “arrears”? Yes No Unsure

If yes, how long? _____

ABUSIVE BEHAVIOURS

Please indicate which forms of abuse were present in this relationship:

Physical Emotional Financial Sexual Child Witness N/A

Did the judge in this proceeding make reference to the abuse? Yes No

If yes, what did she or he say about it? _____

Are there criminal charges facing the abusive partner for domestic violence (assault, threats etc.)? Yes No Unsure

Are there any criminal convictions for domestic violence (assault, threats, etc.)? Yes No Unsure

Has there ever been a restraining order against the abusive partner? Yes No Unsure

Were any high-risk indicators mentioned in this case? Yes No Unsure

If yes, were the indicators acknowledged by the court and used to help determine conditions of custody and access?

Yes No Unsure

If yes, which high- risk indicators were used in this case? _____

COURT RESPONSE

What was the judge's attitude towards the applicant?

Abrupt Attentive Distant Respectful Other (specify)

What was the judge's overall attitude during the proceeding: (check all that apply)

Alert Interested in the proceeding Disinterested in the proceeding
 Distracted Respectful toward abused partner Disrespectful toward abused partner

Please describe the overall courtroom environment. (What was the attitude of the clerks, attorneys, court personnel, and people in the court toward the abused partner? Describe both verbal and non-verbal):

Please record any of the Judge's comments that you found to be positive or challenging.

Are there any improvements or changes you would like to recommend for this court proceeding? Yes No

If yes, please describe:

Do you suspect domestic violence in this case?

If yes, please explain:

Adjournment date (if applicable) _____