



This report summarizes the findings of a two year study into the plight of abused women and their children following separation from a batterer. This study was made possible by the generosity of The Atkinson Charitable Foundation. Sixty-two women and 95 children were interviewed about their experiences in the justice system as well as their successes and frustrations in accessing community services such as legal and counselling resources. Focus groups were held with survivors of domestic violence involved with specialized counselling programs. Although some survivors of abuse found assistance, many describe a sense of re-victimization by legal, social service and mental health professionals who lacked an understanding of the dynamics of domestic violence and the impact of this violence on the women and their children. To provide the reader with the context for this work each section of this report contrasts the myths and facts in the field juxtaposed with the findings of our study.

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## Myth .....

- Domestic violence is rarely a problem for divorcing couples involved in a child custody dispute.

## Fact .....

- The majority of parents in “high-conflict divorces” involving child custody disputes report a history of domestic violence.

- A majority of separating parents are able to develop a post-separation parenting plan for their children with minimal intervention of the family court system. However, in 20% of the cases greater intervention is required by lawyers, court-related personnel (such as mediators and evaluators) and judges. In the majority of these cases, which are commonly referred to as “high-conflict”, domestic violence is a significant issue (Johnston, 1994).
- In a review of parents referred for child custody evaluations by the court, domestic violence was raised in 75% of the cases (Jaffe & Austin, 1995).
- Of 2,500 families entering mediation in California, approximately three-quarters of parents indicated that domestic violence had occurred during the relationship (Hirst, 2002).
- Between 70-75% of parents referred by the family court for counselling because of failed mediation or continuing disputes over the care of their children, physical aggression had taken place (Johnston & Campbell, 1988).
- Attempts to leave a violent partner, with children, is one of the most significant factors associated with severe domestic violence and death (Websdale, 1999).

**In our study,** the majority of women trying to leave abusive partners suffered multiple forms of emotional, psychological, financial and physical abuse. The extent of the violence is summarized in Table I and ranges in severity from name-calling (96.7%) to threatening with a knife or a gun (28.8%).

For the majority of women (71%) the first abusive incident occurred within the first six months of their relationship. Most women reported that the abuse was primarily verbal in nature (60%) and involved some type of emotional, or psychological abuse. For 35% of the women, their first experience involved physical abuse.

For most of the women, the most recent incident had occurred either at or around the time they were separating from their partner (23%) or post-separation (54%). About half of the women described an event that involved physical abuse. Many women described the last abusive incident as involving psychological (22%) or verbal (20%) abuse. Most of these events occurred after the separation where the former partner made threatening statements regarding custody or child support issues.

The majority of women reported a physically abusive incident as the worst type of abuse they had experienced with their former partner (78%). The severity of abuse ranged from a little physical contact (7%) to incidents involving weapons and/or a high risk situation. Examples of high risk abuse included pointing a gun to the woman's head and attempting

strangulation. Interestingly, several women mentioned a verbally abusive incident as the worst incident of abuse despite previously reporting severe physical abuse. One woman noted: "The bruises go away after a month but the verbal/psychological abuse will stay with me forever."

In an effort to understand more about the abusive environment in which the women lived, participants were asked to describe the abuse they typically experienced. Most women noted that emotional and psychological abuse were typical in their relationships.

Forty-four percent of the women in the study reported that their former partner had been abusive towards the family pet. Several women described a high level of sexual abuse. These women noted that marital rape was a common occurrence in their relationship.

**Table 1. Types of Abuse Experienced by Women Participants**

<b>Nature of Abuse</b>	<b>% Women Reporting</b>
Limiting contact with family and friends	<b>80.0</b>
Monitoring whereabouts and personal contact	<b>78.3</b>
Name calling	<b>96.7</b>
Preventing access to family income	<b>55.0</b>
Threatening to hit with fist or something to cause physical harm	<b>84.5</b>
Throwing anything causing physical harm	<b>71.2</b>
Pushing, grabbing, shoving	<b>86.4</b>
Slapping	<b>64.4</b>
Kicking, biting or hitting with fist	<b>54.2</b>
Hitting with object causing physical harm	<b>47.5</b>
Physical injuries	<b>44.1</b>
Choking	<b>32.2</b>
Threatening/using gun or knife	<b>28.8</b>

## Implication .....

- Family courts and court-related services need to assess the nature and impact of domestic violence on women and children in custody disputes.

## Myth .....

- Domestic violence ends with separation for abused women.

## Fact .....

- Abused women often face continuing risks from their partner after separation.
  - Separation is the most dangerous time for abused women. Ontario Inquests and Domestic Violence Fatality Reviews have consistently pointed to the period of separation as the highest risk for victims of domestic violence. In Canada, the rate of spousal homicide for separated women was over twenty-five times higher compared to married women (Johnson & Bunge, 2001).
  - Physical abuse, stalking, and harassment continue at significant rates post-separation. National research in Canada has suggested that for approximately one-quarter of abuse victims, the violence became more severe compared to pre-separation violence (Statistics Canada, 2001).
  - Access to children can be used by batterers as an opportunity to further abuse their former spouse. In a Canadian study, one-quarter of the women reported that their lives were threatened during access (Leighton, 1989).
  - Threats to obtain custody are commonly used by abusers as a weapon against the abuse victim to enhance his power and control post-separation. Research has shown that batterers are more likely to apply for custody and equally likely to be granted it in comparison to non-violent fathers (Zorza, 1995).
  - The ongoing risks to abused women and children is so high at the point of separation that supervised visitation centres have become an essential domestic violence service (Sheeran & Hampton, 1999).

**In our study,** almost all of the women had experienced some type of abuse following separation (97%). Similar to findings of abuse in marriage, women experienced multiple forms of abuse. Table 2 describes the range and frequency of abuse experienced by women post-separation. The majority of women reported that their partner had threatened them. Threats most commonly included threats to physically harm them or taking away custody of the children. A large percentage of women also described various types of financial abuse including financially ruining women (61%), hiding money, or quitting a job to reduce support payments (56%), threatening a woman’s employment or opportunities to work (43%) and spending money in the joint bank account (41%). Taking all of the money out of the joint account was particularly problematic for a number of women because it was their sole source of savings. Women’s current abuse experience depended on the nature of the contact between the father and the children. In a small number of cases (17%), access to the children was not associated with abuse.

**Table 2. Abuse Experienced by Women following Separation (N=62)**

What he did	% Women Responding
Threatened safety	82
Stalked	62
Caused you financial ruin	61
Purposefully impoverished himself to avoid paying support	56
Threatened an employment opportunity	43
Physically assaulted	23
Was sexually violent	18

Twenty-four percent of the women reported that they no longer had contact with their partner because fathers had voluntarily stopped exercising their visitation rights.

About one in five women (22%) were concerned that their former partners would become involved with their children in the future even though there

was no current access plan. Most of the women expressed fears that their partners would bring them back to court and seek custody.

Many women reported that their children had either regular or irregular contact with their fathers and that access was used as an opportunity to continue to abuse the women. In most cases, the children were a conduit for the abuse (78%). The abuse included put-downs, encouraging

children to live with their father, coaching children to make false allegations of abuse by their mother. Another 22% of the women within this group reported that their former partners were often verbally abusive and/or harassing during exchanges. Several women noted that their partner often exercised irregular visitation as a means of controlling them (e.g., “No one is going to tell me when I can see my kid.”).

## Implication .....

- Abused women have an ongoing need for safety planning after separation. Courts need to recognize the merits of supervised access to protect women and children from ongoing abuse.



## Myth .....

- As long as children are not abused directly, they are not harmed by exposure to domestic violence.

## Fact .....

- Children exposed to domestic violence may suffer from significant emotional and behavioural problems related to this traumatic experience.
  - Many children who are exposed to domestic violence show comparable levels of emotional and behavioural problems to children who were the direct victims of physical or sexual abuse (Jaffe, Wolfe, & Wilson, 1990).
  - Children who are exposed to violence may suffer from a variety of trauma symptoms, including nightmares, flashbacks, hypervigilance, depression, and regression to earlier stages of development (Graham-Bermann & Levendosky, 1998).
  - Some studies have shown that children who witness domestic violence may be hampered in their social and academic development (Moore, Pepler, Mae, & Michele, 1989).
  - The effect of domestic violence cuts across all ages and stages of development of children. The impact of violent environments on very young children suggests that permanent negative changes in the child's brain and neural development can occur, such as altering the development of the central nervous system, predisposing the individual to more impulsive, reactive, and violent behaviour (Perry, 1995).
  - In adolescence, exposure to domestic violence is associated with drug and alcohol abuse, truancy, violent dating relationships and involvement in the juvenile justice system (Buel, 2002).
  - Exposure to domestic violence in childhood is associated with significant problems in adult social adjustment (Henning, Leitenberg, Coffey, Turner & Bennett, 1996).

**In our study,** most of the children had been exposed to domestic violence during their infancy (91%). Almost a third of the children experienced this violence on an ongoing basis through each stage of their development into their adolescence. This exposure took on different forms including being an eyewitness to the violence, hearing the violence or seeing the aftermath (mother’s injury or emotional state). Children’s immediate reaction included yelling (63%), calling someone for help (19%), or becoming physically involved (29%).

The children were directly threatened with physical harm in many cases (42%) and actually harmed, either directly and intentionally (27%) or indirectly or accidentally (45%). In half of the families, the children were victims of physical abuse in incidents totally separate from abuse of their mother.

Table 3 summarizes how the children were affected by the domestic violence according to their mothers’

**Table 3. Major Problem Areas for Children Exposed to Domestic Violence**

<b>Nature of Problem</b>	<b>% of Children</b>
Behaviour problems/ aggression	<b>35</b>
Attention difficulties/ hyperactive	<b>37</b>
Learning disability/ difficulties	<b>19</b>
Anxiety/depression	<b>21</b>

reports as well as concerns raised from school teachers. Significant behaviour problems related to aggression (35%) or anxiety and depression (21%) were common. One-third of the children were seen to be having significant difficulties related to attention and hyper-activity, often resulting in a

formal “Attention Deficit Disorder” diagnosis. In our study, children who talked about the violence they witnessed were less likely to have adjustment problems in comparison to children who remained silent about these events.

Children’s adjustment was associated with the nature of their relationship with their father. The more the children feared their father,

the more significant anxiety and depression symptoms were present. Time appears to be a healer. The longer the children had gone without seeing their father, the greater the improvement in their overall adjustment. This finding is contrary to the usual divorce literature which suggests a positive relationship with both parents predicts better child adjustment.

## Implication .....

- Children exposed to domestic violence may require comprehensive assessment and intervention services.

# Myth .....

- Since domestic violence is behaviour between adults, it is not relevant for the determination of child custody.

# Fact .....

- Domestic violence is highly relevant to the determination of child custody by courts and court-related services.
  - Domestic violence is extremely relevant to parental fitness. Batterers are poor role models for children in how to moderate emotions, control anger, and engage in healthy and nurturing relationships (Cummings et al, 1985).
  - When a batterer abuses his spouse, he also is likely to be abusive to the children (Edelson, 1999).
  - Domestic violence perpetrators may undermine the non-abusive parent in alienating and blaming behaviour compromising the children's ability to cope with the separation (Bancroft and Silverman, 2002).
  - Violent spouses may continue their pattern of domination and control in subsequent intimate relationships and thereby continue to traumatize their children (Woffordt, Mihalic, & Menard, 1994).
  - Approximately one-third of US states have a "rebuttable presumption" in their family laws that an abusive spouse cannot have sole or joint custody of their children because of the potential harm (direct and indirect) to the children (Jaffe, Lemon & Poisson, 2002).
  - Guidelines for psychologists completing child custody evaluations include the importance of assessing a history of domestic violence in determining the suitability of a parent for primary custody of children (American Psychological Association, 1996).



**In our study,** the most common reason given by abused women for leaving their partner was their fear for their children's safety, as well as their own. They recognized that they could not stop the abuse and had increasing concern about the inter-generational transmission of this violence. For many women, the decision to make a final break was extremely difficult because of their ambivalence about the number of issues including the children's need to have a father figure and the consequences related to housing and financial support. Table 4 summarizes some of the key factors in decisions to stay or leave.

It is interesting to note that abused women were able to generate a much longer list of factors that resulted in them staying longer in the relationship or returning to the relationship, in spite of their concerns about safety. The turning point for the majority of women was the ongoing danger to the children and the potential for future adjustment problems.

The majority of women wanted the children to have a positive relationship with their father if safety needs could be addressed. Most women recognized positive qualities in the batterer and sought some plan that would keep the children in regular contact with their father. They reported multiple separations and also return to the abusive relationship to avoid disrupting the children's lives as well as the need for financial survival and adequate housing.

A constant theme in our interviews with victims was the safety and well-being of their children. Decisions they made about separation often hinged on their views about their children's adjustment. The harm to their children through the domestic violence was often ignored by many professionals, including judges and lawyers. In some cases the harm to these children was seen as irrelevant to the court in comparison to settling the cases as quickly as possible.

**Table 4. Major Factors in Abused Women's Decision:**

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**To Stay**

- ✓ Threats of losing custody
- ✓ Children need father
- ✓ Too disruptive
- ✓ Housing and finances
- ✓ Love and not being alone
- ✓ Thought he'd change/get help
- ✓ Family pressure
- ✓ Religious beliefs
- ✓ Partner's suicide attempt

**To Leave**

- ✓ Children's safety
- ✓ Personal safety
- ✓ Children's adjustment

## Implication .....

- Interventions with abused women need to recognize their concerns about their children's safety and well-being.

# Myth .....

- Family courts, lawyers and court-related services, such as mediation and custody evaluation, can assess the needs of abused women and their children as well as the impact of the batterer (perpetrator of domestic violence).

# Facts .....

- The significance of domestic violence is often overlooked by family courts, lawyers, and court-related services.
  - The majority of victims of domestic violence do not raise concerns about their victimization in mediation. In cases where allegations of violence are made, joint sessions between the perpetrator and the victim are held more than 40% of the time (Hirst, 2002).
  - Most abused women have difficulty proving their abuse in family court proceedings because of insufficient corroborating evidence. Since three quarters of abuse victims do not contact the police, independent evidence often required by the courts is lacking (Stats Canada, 1993).
  - Batterers' and victims' competence as parents in child custody proceedings is difficult to accurately assess. Most batterers present with no obvious mental health problems. Many victims suffer from a variety of trauma symptoms related to their abuse. As a result, the court outcome may fail to address the basic issues of safety of the victims and their children, and accountability for the perpetrator's behaviour (Gondolf, 2002).
  - Abuse survivors may present as angry, distrustful and suspicious with all professionals related to the court proceedings. This presentation undermines their effectiveness in dealing with the court system and may result in adverse inferences drawn about their attitudes, parenting skills and ability to promote a relationship with the other parent (Jaffe & Geffner, 1998).
  - Even when the domestic violence is formally recognized, its relevance to determining child custody and access plans is missed. Fathers who had protection orders against them had a much higher probability of being granted visitation compared with those fathers who never had a protection order against them (O'Sullivan, 2000).

# In our study,

the majority of abused women described a high level of dissatisfaction with lawyers, courts, and court-related services such as mediation and custody evaluations (assessments). Abused women had the greatest satisfaction with specialized services (shelter, advocacy centre) and least satisfaction with agencies and professionals that appeared insensitive to their abuse histories.

Women’s satisfaction with lawyers was split 50/50, depending on the sense of whether or not there was an understanding of the dynamics of domestic violence. Table 5 summarizes the women’s perceptions of the qualities and characteristics that made a lawyer effective. An effective lawyer appeared to be a good listener and inquired about issues related to safety and the children’s well-being. Abused women’s

characterization of ineffective lawyers were ones that minimized the abuse, were ill-prepared and presented as impatient and intimidating.

Our study suggested that court-related services were also insensitive to the dynamics of domestic violence. Over one-third of the women were referred to mediation but felt pressured to attend because Legal

Aid said litigation cost too much, their lawyer said it was cheaper, or they were advised to make a good impression by appearing co-operative. Mediation is usually not recommended for domestic violence victims because of the inherent power imbalance contrary to the requisites for this process. Only one-quarter of those women pressured into

mediation felt that the mediator made them feel safe and was cognizant of the dynamics of the abusive relationship.

Similar concerns were raised with child custody assessors. In one-quarter of the cases the history of domestic violence was minimized or ignored. In half of the cases where the issues of domestic violence was clearly raised during interviews, the impact of this violence and its relevance for custody/access arrangements was not mentioned.

**Table 5. Abuse Victims Perceptions of their Lawyers**

Effective	Ineffective
Made me feel safe and secure	Minimized the abuse
Clearly explained the process	Made me feel crazy
Asked about the safety of the children	Couldn’t listen to abuse
Listened to my story	Questioned why I stayed
Understood the dynamics of domestic violence	Left access terms vague
Encouraged me throughout the process	Pressured me to take a poor offer
Advocated for services	Was impatient and intimidating
Came prepared	Was not prepared

The inconsistency in quality and sensitivity of service providers was highlighted by the variability of the judges that made decisions about child custody. Different judges varied in their knowledge about domestic violence and the weight that this issue should receive. The abusive spouse and their lawyer would play on these differences by “judge shopping” through various legal strategies.

## Implication

- Family courts, lawyers and court-related services need training to enhance their skills in responding to domestic violence.

## Myth .....

- Legal and mental health (counselling) services for abused women and their children separating from batterers are readily accessible and well co-ordinated.

## Facts .....

- Abused women often experience difficulty accessing appropriate legal and mental health counselling services for themselves and their children.
  - Abused women separating from a batterer have difficulty accessing safety and support from the courts, especially if they face additional barriers such as poverty, isolation and immigrant status (Vascoe, Jaffer, & Irwin, 2002).
  - Effective assistance for abused women and their children in the formal helping systems and courts depends on whether or not individual providers were knowledgeable about the dynamics of domestic violence (Vascoe et al, 2002).
  - Abused women often feel re-victimized by the court system's response to the violence. Rather than finding safety, protracted disputes may put the women and children at further risk (Sinclair, 2000).
  - Access to legal assistance is limited by poverty and place abused women in a choice between self-representation or an inadequate counsel hamstrung by minimal hours or lack of experience and specialization in the field (Neilson, 2001).
  - In one study, 50% of abused women indicated that they remained or returned to abusive relationships because of their inability to get Legal Aid or a lawyer that would take Legal Aid cases (Ontario Association for Interval & Transition Houses, 1996).

**In our study,** almost all the abused women retained the services of a lawyer to help them through the court system. The court process ranged from three months to ten years and averaged almost 3 years.

One-third of the women are still going through the system. Their costs to date have ranged from nothing (Legal Aid) to \$150,000 with an average of \$16,803 to resolve child custody and support issues.

The majority of the women did not know how to access legal services and were dependant on friends, family or various community services. Three-quarters of the women applied for Legal Aid. One-quarter of the women were denied assistance because of the nature of the family law dispute or because they had savings or a house to put a lien on. Most women were grateful for any legal assistance but felt only minimal service was available by the hours authorized. The complexity of child custody

disputes with domestic violence required time and expertise beyond what they were offered. Some women had to go heavily into debt to access required services.

**Table 6. Nature of Service Obtained and Satisfaction**

Service	% Utilizing Service	% Somewhat or Very Helpful
Shelter/specialized service	33%	95%
Legal advocacy/information	42%	50%
Support group	33%	84%
Individual counselling	50%	n/a
Group counselling for children	35%	n/a
Police	68%	56%
Medical	52%	69%
Children's Aid Society (CAS)	44%	50%
Clergy	42%	59%

Beyond access to the court system, women had contact with multiple agencies and services. A significant number of women described that the stress and fear from the separation seemed to be compounded by the difficulty in accessing ongoing services and support. More often than not the services were neither consistent in their advice nor co-ordinated with other agencies. The agencies involved with our study sample and the

victims' satisfaction is summarized in Table 6. The satisfaction may vary as a nature of specialization as well as whether or not the service is chosen voluntarily (e.g. only 52% chose to contact the Children's Aid Society versus 82% chose to contact a counsellor).

## Implication .....

- Court and community interventions for abused women require collaboration amongst many service providers. Specialized domestic violence services seem to be an essential component in these interventions.

## Myth.....

- There are no apparent solutions and community strategies to the complex dilemmas posed by abused women and children separating from batterers.

## Facts .....

- There are many emerging community and court innovations in responding to women and children separating from an abusive parent.
  - Legislation can be and has been drafted to recognize the relevance of domestic violence in child custody disputes. These efforts of legislative reform have enhanced requirements for courts and court related services to make safety of abused women and their children a priority (National Council of Juvenile and Family Court Judges, 1994).
  - Training and education for judges, lawyers, mediators, custody evaluators, supervised access providers and child welfare workers on domestic violence is an essential component of court reform. For example, in California, custody evaluators must attend 16 hours of training specifically on domestic violence (12 hours classroom and 4 hours networking with domestic violence service providers) before being accepted by the court as a qualified evaluator (Family Violence and Sexual Assault Institute, 2000).
  - Researchers and practitioners in the area of domestic violence are continuously developing new instruments and improving existing ones in an effort to predict future dangerousness of batterers, as well as the consequences to their victims and children (Campbell, Sharps & Glass, 2001).
  - Innovative programs for batterers, victims, and children exposed to violence are being implemented and evaluated across the country. For example, effective model programs based on a group psycho-educational approach for children exposed to domestic violence have shown promise as a community strategy to deal with the aftermath of domestic violence (Jaffe, Lemon, & Poisson, 2003).
  - Abused women can find meaningful support from knowledgeable agencies, who can provide counselling for children and network with other systems and service providers (Vasco et al, 2002).



**In our study,** abused women were asked to reflect on their experiences seeking help for themselves and their children through the court system and various service providers. These women were given an opportunity to make recommendations about changes they would make to the existing systems that deal with the aftermath of domestic violence. A summary of major recommendations appears in Table 7.

A major theme in the recommendations focuses on the needs for training for all professionals in various systems to be better informed about domestic violence, especially the impact on victims and children exposed to this violence. Many victims also want enhanced and flexible service to meet both theirs and their children's needs. These recommendations are vital for all victims but should examine the additional barrier of poverty in accessing services.

**Table 7. Recommendations by Abused Women on Changing the Court and Community Response to Domestic Violence**

1. Train all professions on the dynamics of abuses and the impact of domestic violence on children.
2. Centralize the system to facilitate access to various services.
3. Increase Legal Aid to allow enhanced services in abuse cases.
4. Educate judges and lawyers on aspects of justice system that promote revictimization.
5. Monitor, enforce and co-ordinate orders in criminal and family court.
6. Assure that social assistance programs have the flexibility to help support abused women in transition to housing, education and employment.
7. Clarify role and responsibilities of Children's Aid Society in child custody disputes with domestic violence allegations.
8. Enhance teacher training and specialized resources in the education system for children exposed to domestic violence.

maze of services and choices ahead of them. A more streamlined and centralized system would have been more helpful, in retrospect, to secure the appropriate services.

The majority of abused women express the most serious concerns about the safety and well-being of their children which are often overlooked by legal, social service, and mental health professionals. Since many of these children present with emotional and behavioural problems, access to services is essential. The majority of victims want the school system to be an effective partner in this response by training teachers around these issues and providing adequate resources to help these children cope with these difficult circumstances.

Despite suffering from years of abuse and great frustrations in accessing appropriate services, the abused women in our

Many abused women remember feeling so overwhelmed at a crisis point in leaving their abusive partner without any understanding of the

study maintain hope that our courts and community services can improve the quality of their responses for future women and children in crisis.

## Implication .....

- Survivors of domestic violence should have an essential voice in improving court and community responses to the plight of abused women and children.

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